

GENERAL SYNOD

DRAFT CHURCH REPRESENTATION AND MINISTERS MEASURE

DRAFT AMENDING CANON NO. 39

REPORT OF THE STEERING COMMITTEE OF MEMBERS IN CHARGE

Chair: The Ven. Dr Jane Steen, Archdeacon of Southwark (Southwark)

Members: Dr Chris Angus (Carlisle)
The Rt Worshipful Timothy Briden (ex officio)
The Revd Alyson Buxton (Lincoln)
Prof. Joyce Hill (Leeds) (Chair of the Revision Committee)
Dr Addy Lazz-Onyenobi (Manchester)

Previous stages

1. The draft Church Representation, Ecumenical Relations and Ministers Measure (GS 2046) and draft Amending Canon No. 38 (GS 2047) received first consideration at the February 2017 group of sessions. The Revision Committee exercised its power under SO 56(3) to divide the draft Measure and draft Amending Canon so that the provisions concerned with ecumenical relations became a separate Measure and separate Amending Canon, the Ecumenical Relations Measure and Amending Canon No. 38.¹
2. The remaining clauses and Schedules of the original Measure and paragraphs of the Amending Canon took the form of new drafts: the draft Church Representation and Ministers Measure and draft Amending Canon No. 39.
3. At the July 2018 group of sessions the Synod took note of the second report of the Revision Committee (GS 2046YY/2047YY) which was on what had become the Church Representation and Ministers Measure and Amending Canon No. 39. The Synod completed the Revision Stage for the Measure and Canon which then stood committed to the Steering Committee in respect of their final drafting.

The Steering Committee's consideration of the Measure and Canon in respect of their final drafting

4. The Steering Committee has met twice since the July 2018 group of sessions. Unusually for the final drafting stage, the Committee received correspondence relating to the draft Measure from a number of members of the Synod. Some of the issues requiring drafting amendments were identified as a result of points raised in correspondence.
5. Some of the correspondence the Committee received sought to re-open issues that had been decided by the Revision Committee or by the Synod at the Revision Stage. The reopening of

¹ They received final approval from the Synod in July 2018. The Ecumenical Relations Measure was considered by the Ecclesiastical Committee on 24th October 2018 and, following resolutions in both Houses of Parliament, received Royal Assent on 20th December 2018. Amending Canon No. 38 is for enactment at the February 2019 group of sessions.

such questions at the Final Drafting Stage is precluded by Standing Order 61. We would not therefore have been able to accommodate such requests even if we had been minded to do so. Other proposals contained in the correspondence asked us to make special amendments which, although not reopening issues that had already been decided, involved significant policy considerations. It would have been open to members to raise those issues during the revision process and we did not think it appropriate for us to raise them for the first time at the Final Drafting Stage. Some other suggestions, while not falling into either of these two categories, were not considered to merit the making of amendments.

Compatibility with data protection legislation

6. One particular matter to which the Committee has given further detailed consideration is the compatibility of certain aspects of the Rules with data protection legislation. Publishing church electoral rolls, and allowing their inspection, involves processing personal data that reveals the religious beliefs of data subjects and which is therefore special category data for the purposes of the General Data Protection Regulation (GDPR).
7. The Revision Committee, when it considered the issue, had decided not to rely on the provisions in data protection legislation that are based on obtaining the consent of data subjects to the processing of their data, as doing so would impose too onerous an obligation on electoral roll officers and others. Instead, it was decided to rely on a combination of provisions that (a) permit the processing of personal data generally where the processing is required by law; and (b) permit the processing of ‘special category’ personal data (which includes data that reveals a person’s religious beliefs) where—

processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the personal data are not disclosed outside that body without the consent of the data subjects.

(Article 9(2)(d), General Data Protection Regulation)
8. The processing of data on electoral rolls under the Rules would be required by law, because the Church Representation Rules are statutory and impose legal obligations.
9. As to the processing being carried out in accordance with article 9(2)(d) of the General Data Protection Regulation, the Church of England is a religious body, the processing of data contained on electoral rolls would a legitimate activity of the Church of England, and the processing would relate solely to its members or former members.
10. However, since the Revision Committee reported, a difficulty with relying on article 9(2)(d) for the purpose of the publication and inspection of church electoral rolls has been identified. The difficulty arises from the provision at the end of article 9(2)(d) that prohibits data being disclosed *outside* the religious body in question. If a church electoral roll is published by being displayed at the church, or on a parish website, and if it is open to inspection, the data it contains will potentially be disclosed outside the body of persons who are members of the Church of England.
11. The Steering Committee therefore sought legal advice on whether there were any other provisions in article 9 of the GDPR that could provide a lawful basis for the publication and inspection of church electoral rolls. The Committee was not prepared to accept that publication and inspection of church electoral rolls be abolished unless no lawful basis (leaving aside consent) existed which would enable publication and inspection to continue.

12. On the basis of advice provided by the Legal Office the Committee is satisfied that there is another lawful basis that would enable the publication and inspection of church electoral rolls and that it will be possible to rely on article 9(2)(e) of the GDPR for these purposes. Article 9(2)(e) permits the processing of special category data where “processing relates to personal data which are manifestly made public by the data subject”.
13. There are no decided cases on article 9(2)(e) and the Office of the Information Commissioner has not issued any relevant guidance. However, the EU legislation which preceded the GDPR contained a provision that was in identical terms to article 9(2)(e) and that provision was given effect in the domestic law of the United Kingdom by paragraph 5 of Schedule 3 to the Data Protection Act 1998 (now repealed and replaced by the GDPR and the Data Protection Act 2018). In cases decided by the courts under the old legislation, it has been held that where it is a legal consequence of a particular act of the data subject that data is made public, that data can be processed on the basis that it has been made public “as a result of steps deliberately taken by the data subject”.²
14. Because the cases in question were decided under the old UK legislation that used different language to implement the relevant provision of the 1995 Directive, they do not directly answer the question of whether article 9(2)(e) of the GDPR can be relied on in the circumstances with which we are concerned. However, the Committee was advised that as article 9(2)(e) of the GDPR is in identical terms to the relevant provision of article 8(2)(e) of the 1995 Directive, and as the High Court had in effect held that the relevant provision of the Data Protection Act 1998 was compatible with article 8(2)(e) of the 1995 Directive, the decided cases give a satisfactory degree of support for the proposition that if a person takes an action, the consequence of which is that information relating to that action will become public, that person is deliberately making that information public.
15. Therefore, in the case of the church electoral roll, the Committee was satisfied that there was a sound case for taking the view that where an individual applies to have his or her name enrolled on a church electoral roll, the automatic legal consequence of which is that certain data about that individual will be published and open to inspection, that individual is, by submitting his application form, manifestly making public that data.
16. On that basis the Committee was content to retain in the new Church Representation Rules the long-established provision requiring the publication of church electoral rolls when they are revised or renewed, and the provision which makes the roll available for inspection. A note has been added to the application form for enrolment so that an applicant for enrolment is informed that the roll will be published.
17. Names only will be included in the published version of the roll; other personal data will be excluded.

Joint councils – consequential amendments to the Mission and Pastoral Measure 2011

18. The Committee gave further consideration to some of the consequential amendments contained in Schedule 2 of the draft Measure. Under the new Rules, team and group councils, and joint parochial church councils, will no longer be capable of being established. New joint arrangements will be established as joint councils under rules M37 to M42. As a result, consequential amendments need to be made to the provisions of the Mission and Pastoral

² *NT 1 and anor. v Google LLC & anor.* [2018] 3 WLR 1165, paragraphs 110-113. An appeal by the data subject against the decision was due to be heard by the Court of Appeal on 20 December 2018 but was withdrawn. See also *Townsend v Google Inc* [2017] NIQB 81.

Measure 2011 which are concerned with team and group councils and joint parochial church councils.

19. The drafting approach taken in the Measure as originally introduced was to remove provisions from the Mission and Pastoral Measure 2011 that were concerned with team and group councils. A different approach was taken in the draft of the Measure that was returned to the Synod for the Revision Stage in July 2018, with references in the Mission and Pastoral Measure to team and group councils, and to joint parochial church councils, being substituted by references to the new joint councils. However, significant problems with that approach have now been identified.
20. Provision that is made by or under a pastoral scheme for a team or group council, or a joint parochial church council, expires after a maximum of five years. Provision of that nature is inappropriate for a situation where the property and functions of a PCC are *transferred* to a joint council (as opposed to the existing position under which functions are merely *delegated* upwards from a PCC to a team or group council, or joint parochial church council). The Committee was informed by the Church Commissioners' Pastoral Team that parishes often fail to realise, or forget, that the provision for a team or group council, or joint parochial church council, included in a pastoral scheme, or in a bishop's instrument under a pastoral scheme, is time-limited. The result is that parishes allow the provision for the joint arrangements to expire without putting a successor scheme in place under the Church Representation Rules.
21. That does not greatly matter as things stand because each PCC remains in existence with all its property and functions intact; the expiry of the joint arrangements simply means that the upwards delegation from the PCCs lapses. But under the arrangements for joint councils in the new Rules it would be a very serious matter if provision for a joint council made by or under a pastoral scheme were allowed to lapse by default. When the provision expired, the joint council would cease to exist. Any property that had been transferred to it would cease to have an owner and there would be no legally satisfactory way of dealing with it. And there would be no body in existence that could exercise functions that had been transferred from a PCC to the joint council.
22. The Committee accepted that the consequential amendments to the Mission and Pastoral Measure that were contained in Schedule 2 to the draft Measure could not be left as they stood. The Committee considered that there were two drafting approaches available to it to deal with this issue.
23. It would in principle be possible to make special provision in the Mission and Pastoral Measure providing for what should happen where provision for a joint council made by or under a pastoral scheme expired and was not replaced by a scheme under the Church Representation Rules. However, work carried out by the Legal Office had demonstrated that the provision that would be needed if this approach were taken would be both extensive and very complicated. That would detract from the underlying aim of the new Rules which was to simplify matters. In any event, the making of such provision would not eliminate the underlying problem of parishes not realising that provision made by or under a pastoral scheme had expired and acting as if the joint arrangements remained in existence (which was understood to be quite common).
24. A second drafting approach – which was supported by the Church Commissioners' Pastoral Team – was much simpler. It involved making consequential amendments to the Mission and Pastoral Measure to omit the provisions that currently provide for the establishment of team and group councils, and joint parochial church councils, by or under pastoral schemes. That would mean that the establishment of new joint councils would be left to the Church Representation Rules.

25. The Committee decided to adopt the second approach. Team and group councils, and joint parochial church councils, would no longer be capable of being established under the new Rules. The most straightforward approach to making consequential amendments was therefore to omit provisions in the Mission and Pastoral Measure that concerned those councils. That approach also resulted in the least legislative complexity, and that was consistent with the underlying aim of simplification. The alternative approach would have been contrary to that aim. The relevant drafting amendments can be found in paragraphs 33, 34 and 36 of Schedule 2 to the draft Measure.
26. The result is that the establishment of joint councils will, in all cases, follow the same procedure under the Church Representation Rules. Whether to form a joint council will be for local – i.e. parish and diocesan – decision. Joint council arrangements will always be of indefinite, rather than temporary, duration and as a result significant legal and technical difficulties are avoided.

Amendments to the Measure and Canon

27. The Committee now returns the draft Measure (GS 2046BB) and draft Amending Canon (GS 2047BB) for Final Drafting and Final Approval.
28. Under Standing Order 61, on the Final Drafting Stage the Steering Committee may propose ‘drafting amendments’ or ‘special amendments’ or both. These two categories of amendments are defined in SO 61(6) as follows –
 - “drafting amendment” means an amendment to clarify any remaining uncertainties of meaning or to improve the drafting, and
 - “special amendment” means an amendment, other than a drafting amendment, considered necessary or desirable by the Steering Committee and which does not reopen an issue which has been decided by the Synod or any Revision Committee in relation to the Measure or Canon.
29. The Steering Committee has agreed the drafting amendments to the Measure shown in bold type in GS 2046BB. The amendments are explained in the Annex A to this report.
30. The Steering Committee also proposes the special amendments to the Measure that are set out in Part 1 of Annex B. An explanation for the proposed Special Amendments can be found in Part 2 of Annex B.
31. Annex C contains drafting notes prepared by Legislative Counsel on the approach taken to the drafting of the new Church Representation Rules.
32. The Committee has not identified the need for any drafting or special amendments to the Amending Canon.

On behalf of the Committee
Jane Steen
Chair

January 2019

CHURCH REPRESENTATION AND MINISTERS MEASURE

EXPLANATION OF DRAFTING AMENDMENTS

Schedule 1

Rules 3 and 6 (revision of roll and preparation of new roll)

1. The new Rules 3(4) and 6(6) make express provision for the exercise of the minister's functions relating to the electoral roll where there is no minister. The new provision ensures consistency with similar provision elsewhere – see Rule M2(4), for example.

Rule 12 (model rules: scheme for amendment)

2. On paragraph (2), the new sub-paragraph (c) excludes the provision on extraordinary parochial meetings from the power to amend the Model Rules. Extraordinary meetings will therefore be treated in the same way as special parochial meetings.
3. Also on that paragraph, the new sub-paragraph (f) excludes from the power to amend the requirement for a PCC meeting to have a majority of lay members present.

Rule 13 (parish governance: procedure for making scheme for amendment)

4. On paragraph (4), the new sub-paragraph (d) makes provision in consequence of the new Rule M40 (see below), so as to require a scheme under Rule 12 which varies the model rules to provide for the possibility that a parish which belongs to a joint council under a scheme under Rule M37 may cease to do so.
5. The new paragraph (6) improves the drafting by making express what is implied by paragraphs (2) and (3) and providing that the scheme may not come into operation unless it has been approved by the bishop's council and standing committee.

Rules 15 and 16 (deanery synod: membership)

6. On each of Rules 15(1) and 16(1), the new sub-paragraph (h) provides for the membership of those for whom provision is made in a scheme under Rule 23 or 24. These amendments are consequential on the amendments made by the Revision Committee to give a greater role in church representation to those involved in cathedrals, royal peculiars and mission initiatives. There is a consequential amendment to Rule 63(1).

Rules 19 and 35 (timing of elections)

7. The amendments to Rules 19(1)(a) and 35(1) improve the drafting by specifying the first of the years in which each of the elections in question is to take place.

Rule 21 (number of members)

8. The new paragraph (2)(b) permits the number of members of a deanery synod to exceed 150 in order to accommodate a scheme under Rule 24 for the representation of a mission initiative. Again, this is consequential on the amendments already made by the Revision Committee.

Rule 23 (scheme for representation for cathedrals and royal peculiars)

9. The amendments to paragraph (1) are intended to improve the drafting.
10. The amendment to paragraph (2) provides for the representation of the dean, residentiary canons and other ministers in a scheme which relates to Westminster, Windsor or Oxford. This ensures that Rule 27 of the current Church Representation Rules, as glossed by Rule 54(4) of those Rules, is fully restated.

Rule 25 (schemes: approval)

11. On paragraph (2), the reference to Rule 23, which requires a diocesan synod to make schemes for the representation of cathedrals and royal peculiars on deanery synods, has been omitted. As a result, the approval of such schemes will not be subject to a requirement for special majorities. This ensures consistency with the change made at Revision Stage to remove the equivalent requirement for the approval of schemes for the representation of mission initiatives.

Rules 26 and 44 (deanery and diocesan synod: procedure)

12. On Rule 26, the new paragraph (5) provides for the lay chair of a deanery synod to continue to hold office until his or her successor as chair is elected. This removes any uncertainty there might otherwise be by ensuring that there is still a person to whom a notice of appeal can be given at the end of the lifetime of the deanery synod.
13. On Rule 44, the new paragraph (5) makes equivalent provision for the chair of the house of clergy and the chair of the house of laity of a diocesan synod.
14. Also on Rule 26, paragraph (5) refers to the “lay chair” (instead of the “lay joint chair”) of the deanery synod and paragraph (7) defines the expression. Equivalent changes are made to Rules 57(5) and 58(8) and to the new section 5A(7) inserted in the Churchwardens Measure 2001 by paragraph 23 of Schedule 2. The definition is also included in Rule 84(1) and there is an entry for it in the Index in Part 11.

Rule 28 (deanery synod: casual vacancies)

15. The new paragraph (3) is what was Rule 73(2) in the draft put before Synod in July 2018. The provision in question, which restates Rule 48(4) of the current Church Representation Rules, is intended to be limited to casual vacancies in the house of laity of a deanery synod. The reference in the current provision to representatives “who are electors” excludes representatives of the laity elected as members of a PCC. In consequence, what was paragraph (2) has been omitted from Rule 73.

Rule 31 (diocesan synod: house of clergy)

16. The amended paragraph (1)(a) provides that, where a diocese has more than one cathedral, each dean is a member of the house of clergy of the diocesan synod.
17. The amendment to paragraph (4)(a) provides for each college of the University of London to be treated as a separate university situated in the diocese in which the main site of that college is situated. As a result, Royal Holloway will be treated as being in Guildford diocese and Goldsmith’s will be treated as being in Southwark diocese.
18. On paragraph (3), the express references to particular dioceses are intended to improve the drafting.

Rule 32 (diocesan synod: house of laity)

19. On paragraph (1)(b), there is now an express requirement for the person chosen from the religious communities to be lay. This provides consistency with Rule 46(1)(c).

Rule 33 (power of bishop to nominate members)

20. On paragraph (5), the new wording at the beginning replaces the previous reference to the designation of a deanery synod “where necessary”. The amendment is intended to elucidate that expression by providing that, where a person is eligible for membership of more than one deanery synod, a choice of synod has to be made.

Rules 40, 42 and 45 (diocesan synod elections)

21. The amendments to Rules 40(6) and 42(4) and the new paragraph 45(5) make further provision about the timetable fixed by the bishop for elections to the diocesan synod and clarify the relationship between the bishop’s functions and those of the presiding officer.

Rule 48 (House of Laity: co-option)

22. The new paragraph (6) removes any doubt there might be that a person who ceases to be a co-opted member of the House of Laity can be co-opted again subsequently.

Rule 49 (House of Laity: numbers)

23. On paragraph (1), the reference to a maximum figure for each province (136 for Canterbury and 59 for York) has been replaced by a reference to a single figure of 195. This removes the conflict there might be if a resolution under paragraph (4)(b) (which was inserted by the Revision Committee) were to specify a proportion between the two provinces other than the current 70 to 30.

Rule 52 (elections to House of Laity: timing)

24. On Rule 52(2), the reference to the Archbishops is replaced by a reference to the Presidents for consistency with the more apt reference in paragraph (3).

Rule 55 (House of Laity: nominations)

25. On Rule 55(3), some wording has been added to clarify that the provision is intended to apply to a person who is not a diocesan elector but is qualified for election.

Rule 58 (election appeals)

26. On paragraph (1), the closing words have been omitted to correct a drafting error. On paragraph (3), the new wording also corrects a drafting error.

Rule 59 (election appeals: power to make rules for House of Laity)

27. The new paragraph (2) ensures that the power to make rules for the House of Laity is broad enough to enable provision equivalent to that in Rule 58(6) so as to preserve the position of a person who has been elected until the appeal has been determined.

Rule 62 (disqualifications)

28. On paragraph (1), the new wording corrects a drafting error.

Rules 63 to 65 (vacation of seat on deanery synod, diocesan synod or House of Laity)

29. The new Rules 63(7) and 64(8) make express provision for the vacation of the seat of a lay member of a deanery or diocesan synod who becomes a clerk in Holy Orders and remove any uncertainty there might otherwise be.
30. On Rule 63(9), paragraph (b) makes express provision for the case of a diocese which has more than one cathedral by providing that a parochial representative of the laity who ceases to be on the roll of the parish by which he or she was elected does not vacate his or her seat if he or she is on the community roll of any of those cathedrals.
31. The amendments to Rules 64(4)(a), (5)(a), (6)(a) and (7)(a) and 65(2)(a), (3)(a), (4)(a), (5)(a) and (7) correct some cross-references.
32. On Rule 65(3), paragraph (b) makes express provision for the case of a diocese which has more than one cathedral by providing for the vacation of the seat of a member of the House of Laity if he or she ceases to be on the community roll of any of the cathedrals; accordingly, if the member is on the community roll of at least one cathedral, even if not the original one, his or her seat will not be vacated.

Rules 68, 69, M33 and M36 (district church councils)

33. On Rules 68(1)(a), (2)(a) and (3) and 69(1), the references to district church councils have been omitted, and a separate new provision about disqualification from district church councils has been inserted in the new Rule M36 with a consequential amendment to remove what was paragraph (12) from Rule M35. Given that the establishment of district church councils is authorised in the Model Rules, it is preferable to have provision about disqualification in those Rules too. That is consistent with the approach taken for joint councils and removes the awkwardness of referring in Rules 68 and 69 to a body for whose establishment the Rules have yet to provide.

Rule 75 (constraints in elections)

33. On paragraph (1), the new wording ensures that the provision applies also to elections to the House of Laity, which will be dealt with in separate rules made under Rule 56.

Rule 78 (power of bishop to make supplementary provision)

35. The new paragraph (4) provides that, where a PCC has no members or not enough members to form a quorum (and therefore cannot function), the bishop is to have power to appoint a person to do whatever the PCC or an officer of its is required to do under the Rules.
36. On the new paragraph (5), sub-paragraph (b) corrects a drafting error so that the bishop's power to make supplementary provision does not extend to changing the timing or procedure on an election to the House of Laity.
37. Also on the new paragraph (5), sub-paragraph (c) prevents a bishop from changing the timing or procedure on an election to be held under Rule 74(1)(c) after a previous election has been declared void for irregularities. This amendment is consequential on the provision made by the Revision Committee in Rule 74(2) for that election to be completed within three months. In consequence of the new paragraph (5), the wording which was at the end of paragraph (4)(c) and (d) has been omitted.

Rule 83 (interpretation)

38. On the definition of “actual communicant” in paragraph (2), the previous sub-paragraph (a), which required a person’s name to be on the roll of a parish, has been removed. It appears in the definition in Rule 54(1) of the current Church Representation Rules, which was substituted in 1994 for a definition which did not include a requirement to be on a parish roll. However, the requirement appears to be a mistake, as it would defeat the purpose of a number of provisions – for example, eligibility for co-option by the house of laity of a deanery or diocesan synod. On paragraph (2)(a), the revised wording at the end is intended to improve the drafting.
39. The new paragraph (4) provides that if any question as to whether a particular Church is in communion with the Church of England has already been determined under the Overseas and Other Clergy (Ministry and Ordination) Measure 1967, the determination is to have effect for the purposes of these Rules too. That will ensure a consistency of approach. There is a consequential amendment to the Index in Part 11.
40. On paragraph (10), the provision has been recast so as to improve the drafting and restate fully Rule 54(3) of the current Church Representation Rules.

Rule M4 (annual meeting: chair)

41. On paragraph (1), the revised sub-paragraph (c)(ii) provides more context for the reference to the rector in the team ministry. What was paragraph (2)(a) is omitted.

Rules M5 to M7 (annual meeting: business)

42. What was Rule M5 has for convenience been split into three Rules.
43. On Rule M6, what was paragraph (9)(c) in the previous Rule M5 has been hived off to a new paragraph (2), since it is not to be governed by the reference in the opening words of paragraph (1) to things being done “in the manner provided by Rule 7”.
44. Also on Rule M6, the new paragraph (3) is consistent with Rule M22(5).
45. Still on Rule M6, on paragraph (7), the reference to “the first annual meeting” has been corrected to refer instead to the annual meeting to be held the following year, given that the special meeting is itself treated as the annual meeting by Rule M3(2).

Rule M8 (qualifications of persons to be elected as parochial representatives)

46. The amendment to paragraph (2) limits the provision to election as a parochial representative of the laity to a deanery synod.
47. The amendment to paragraph (5) clarifies that the provision is intended to prevent a person from serving as a parochial representative on the deanery synod for the whole or any part of three successive terms of office.

Rule M9 (annual meeting: conduct of elections)

48. Paragraph (2) combines what were paragraphs (2) and (3) to improve the drafting and to reflect the fact that the only elections at an annual meeting are those for the parochial representatives of the laity.

49. On paragraph (5), the express reference to every “lay” person on the parish roll will ensure that a person who is ordained after being entered on the roll, but who will not be removed from the roll until the end of the year, is not entitled to vote in elections at the annual meeting.

Rules M13 and M14 (special and extraordinary meetings)

50. On paragraphs M13(1) and M14(1), the express reference to “written” representations is intended to improve the drafting.

Rule M15 (PCC: members)

51. On paragraph (2), the bracketed wording improves the drafting by ensuring that the provision cannot be misconstrued so as to exclude the minister from membership of the PCC.
52. Also on paragraph (2), a reference has been added to membership under paragraph (1)(d) (members of the team for a team ministry). As a result, clergy who are eligible for membership of a PCC by virtue of being a member of the team for a team ministry will be prevented from becoming members of the PCC if the number of clergy would equal or exceed the number of lay members. This amendment is necessary to ensure consistency with the provision already made by the Revision Committee for clergy who are eligible for membership by virtue of being beneficed or licensed to the parish. There are consequential amendments to paragraph (3).
53. The new paragraph (7) makes provision for the case where a lay member of a diocesan synod or a member of the House of Laity of the General Synod is on the roll of more than one parish. This ensures consistency with similar provisions elsewhere. It also corrects a drafting error by restating the proviso to Rule 42(3) in the current Church Representation Rules. There is a consequential amendment to Rule 1(6)(f).

Rule M16 (PCC: term of office for representatives of the laity)

54. Paragraph (5) has been amended so that the provision for drawing of lots applies at any annual meeting at which more than one-third of the members under Rule M15(1)(j) are elected. This will cover the case where, in addition to the one-third that are to be filled by rotation, casual vacancies are filled at the annual meeting. It can therefore be determined by lot which of the persons elected are to serve only for the unexpired part of a term that was vacated early.

Rule M17 (PCC: term of office)

55. On paragraph (3)(b), the reference to 31 May has been changed to 30 June, given that it will be possible to hold an annual meeting as late as 31 May. The amended wording further provides for the term of office to end on 30 June whether or not a successor is elected at the annual meeting.

Rule M27 (meetings: procedure)

56. The new paragraph (2) provides that a PCC meeting is not quorate unless a majority of the members present are lay. The amendment to paragraph (1) trails that provision.
57. What was paragraph (6) has been removed as it is already covered by Rule 80(1).

Rule M29 (business by correspondence)

58. The new paragraph (3)(b) provides that, where written proposals are circulated for approval, the secretary must report how many members objected to the proposals.

Rule M31 (standing committee)

59. This Rule was amended at Revision Stage so that, where a parish has no more than 50 names on the roll, the requirement for there to be at least five members of the standing committee does not apply and the churchwardens are not automatically members. But difficulties may still arise in the case of a parish which has more than 50 names on the roll. The current provision assumes that a parish has two churchwardens but this is not always the case. Some parishes may not have two eligible persons willing to accept office and it may then not be possible to meet the requirement for the committee to have at least five members. Other parishes may have more than two churchwardens, which could make for an unbalanced committee. The amendments to this Rule accordingly provide that, where a parish has more than 50 names on the roll, the standing committee is to consist of the minister, the churchwardens who are members of the PCC (or, if there are more than two, the two whom the PCC appoints) and at least two other members of the PCC (the number being at least equal to the number of churchwardens on the committee). On paragraph (3), the words in brackets have been added to avoid any doubt there might otherwise be, in light of the new paragraph (2).

Rule M35 (parish with more than one place of worship: district church council)

60. Paragraph (1)(b) has been amended to refer to the annual meeting of the district so as to avoid confusion with the earlier reference to the annual meeting of the parish.

Rule M38 (status, property and functions of joint council)

61. The new paragraphs (7) and (8) provide that a gift which is expressed as a gift to an individual PCC, and which takes effect after the transfer of the PCC's functions to a joint council by a scheme under Rule M37, will take effect as a gift to the joint council. Part 16 of the Charities Act 2011 makes provision for a case where an individual charity ceases to exist on a merger (but that will not apply here as the PCC will continue to exist, albeit in abeyance, following a transfer to the joint council). Paragraphs (7) and (8) therefore remove the uncertainty there would otherwise be about the status of gifts, by following the equivalent provision in the Charities Act.

Rule M40 (parish ceasing to be connected or being dissolved)

62. This new Rule makes provision for what is to happen where a parish in a joint council ceases to be connected (as defined by Rule M37(4)) to the other parishes in the joint council or where a parish which is in a joint council is dissolved by a pastoral scheme. The bishop is to have power to vary or revoke the scheme setting up the joint council and to make whatever provision is required for the transfer of property and functions.

Form 1

63. In the Notes, the new paragraph 10 informs an applicant that, if his or her name is included on the roll, it will be published as a result.

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64. Entries for “building licensed for public worship” and “specified by the Business Committee” have been added to improve the drafting.

Schedule 2

65. On paragraph 17, the amendment to Schedule 2 to the Patronage (Benefice) Measure 1986 reflects the fact that they are concerned with a form of council that, under the new Rules and under the Mission and Pastoral Measure 2011 (see below), will no longer be capable of establishment. Paragraphs 19 and 20 of Schedule 2 to the 1986 Measure will accordingly continue in force in relation to any team or joint parochial church councils in existence before the new provisions come into force.
66. On paragraph 23, the new section 5A inserted in the Churchwardens Measure 2001 has been adjusted for consistency with the equivalent provisions in Rules 57 and 58.
67. Paragraphs 24 and 26 make further amendments to the Churchwardens Measure 2001 in consequences of the changes made by the Rules for the timing of annual meetings.
68. Paragraphs 33, 34 and 36 amend the Mission and Pastoral Measure 2011 to repeal the provisions in Schedule 3 to that Measure for the establishment of team councils, group councils or joint councils by pastoral scheme or bishop’s instrument. This change is intended to simplify matters of practice and procedure by ensuring that only a joint council can be established and that can only be done under the Rules.
69. Paragraph 35 inserts a new section 103A in the 2011 Measure. It will provide that, where a PCC has no members or not enough to form a quorum, the minister and churchwardens are to take on the functions of the PCC. If there is no minister, the churchwardens alone will take on the functions. If there are no churchwardens, the 2011 Measure will not apply to the PCC. Where the 2011 Measure confers functions on an officer of a PCC, the bishop must appoint a person to exercise the functions.

Schedule 3

69. The new paragraph 5 provides for an existing team council, group council or joint parochial church council established under Schedule 3 to the Mission and Pastoral Measure 2011 by pastoral scheme or bishop’s instrument to continue to exist, despite the repeals in Schedule 3, until the council comes to an end under that Schedule.

Part 1

**CHURCH REPRESENTATION AND MINISTERS MEASURE
SPECIAL AMENDMENTS**

Clauses

1. Clause 1, page 1, line 10, at end insert—

“(1B) A resolution under this section may include consequential provision, including provision which amends, or which repeals or revokes a provision of, a Measure or an instrument made under a Measure.”

Schedule 1

2. Rule 40, page 24, line 32, after “is” insert “(subject to Rule 42(5B))”.
3. Rule 42, page 26, line 11, at end insert—

“(5A) Rules under paragraph (5) may make provision equivalent to that made under Rule 56 (election rules for the House of Laity of the General Synod) in relation to electronic voting and may apply any provision of these Rules with or without modifications.”
4. Rule 42, page 26, line 11, at end insert—

“(5B) Where there is a system of electronic voting for elections to a diocesan synod, a completed nomination or voting paper may not be given by email; and Rule 76 (which makes provision authorising the use of email) is accordingly to be read subject to this paragraph.”
5. Rule 53, page 33, line 38, at end insert—

“(1A) The Business Committee must nominate an independent body which it is satisfied would be able to assist each presiding officer with the conduct of an election in the diocese to the House of Laity (including the issue of invitations to nominate and the lodging of nominations), in so far as the election involves a system of electronic voting.

(1B) The presiding officer of each diocese must appoint the body nominated under paragraph (1A) and may not appoint any other body or individual for that purpose.”
6. Rule 54, page 34, line 24, leave out “nomination papers” and insert “invitations to nominate”.
7. Rule 54, page 34, line 26, leave out “nomination papers” and insert “invitations to nominate”.
8. Rule 54, page 34, line 35, at end insert—

“(6A) In ascertaining for the purposes of paragraph (6) whether the names and addresses are correct, the secretary of each deanery synod must ask each elector who has not provided an email address whether he or she wishes to provide one.”
9. Rule 54, page 34, line 37, leave out “nomination papers” and insert “invitations to nominate”.
10. Rule 54, page 34, line 42, leave out “nomination papers” and insert “invitations to nominate”.
11. Rule 55, page 35, line 10, leave out “a nomination paper” and insert “an invitation to nominate”.
12. Rule 55, page 35, line 15, leave out “nomination papers” and insert “nominations”.
13. Rule 55, page 35, line 17, leave out “nomination papers” and insert “invitations to nominate”.
14. Rule 55, page 35, line 18, leave out “a nomination paper” and insert “an invitation to nominate”.

15. Rule 55, page 35, line 21, leave out paragraphs (6) to (11).
16. Rule 56, page 36, line 15, at end insert—
 - “(aa) the process for issuing invitations to nominate and for the lodging and scrutiny of nominations;
 - (ab) the conditions for the validity of a nomination;”.
17. Rule 56, page 36, line 20, at end insert—
 - “(da) the assistance which the body nominated under Rule 53(1A) may provide to a presiding officer;”
18. Rule 56, page 36, line 21, leave out sub-paragraph (e) and insert—
 - “(e) the entitlement of a presiding officer to a fee for the exercise of a function in connection with the election and the entitlement of the body nominated under Rule 53(1A) to a fee for the assistance it provides to a presiding officer;”.
19. Rule 56, page 36, line 23, at end insert—
 - “(2A) The rules may, in so far as they provide for an election to the House of Laity to involve a system of electronic voting, modify the application of any provision of these Rules.”
20. Rule 75, page 49, line 2, leave out “nomination papers” and insert “the valid nominations”.
21. Rule 75, page 49, line 13, at end insert—
 - “(4) In the application of this Rule to an election which involves a system of electronic voting, a reference to something included on or circulated with a voting paper is to be read as including a reference to it being provided as part of the procedure provided for by the system being used in the election for electronic voting.”
22. Rule 80, page 51, line 31, leave out “bishop” and insert “chancellor”.

Part 2

CHURCH REPRESENTATION AND MINISTERS MEASURE EXPLANATION OF SPECIAL AMENDMENTS

1. Special amendment 1 inserts a new subsection (1B) into section 7 of the Synodical Government Measure 1969 so that a resolution passed by the General Synod under that section amending the Church Representation Rules may include consequential provision relating to other ecclesiastical enactments. For example, the Synod might in the future amend the Church Representation Rules in a way that had implications for the Churchwardens Measure 2001 and which required consequential amendments to be made to that Measure. As section 7 of the Synodical Government Measure currently stands, those consequential amendments could not be made unless the Synod passed a separate Measure. The new subsection (1B) will enable consequential amendments to be contained in the amending resolution made by the Synod.
2. Special Amendments 2 and 4 provide that where an electronic system of voting is being used for elections to a diocesan synod, nominations cannot be made by email. They will (unless made in paper form) be dealt with by the online system.

3. Special amendment 3 amends rule 42 of the Church Representation Rules contained in Schedule 1 to the draft Measure to facilitate the use of electronic voting in elections to a diocesan synod. Where a diocesan synod resolves to have a system of electronic voting for elections to that synod, the election must be conducted in accordance with rules that have been approved by the General Synod. (See rule 42(5).) The new paragraph inserted into rule 42 ensures that the General Synod's power to make rules is wide enough to enable those rules to modify provisions in the Church Representation Rules so that they are compatible with the procedures involved in the use of a system of electronic voting.
4. Special amendments 5 to 21 amend the provisions of the Church Representation Rules contained in Schedule 1 to the draft Measure to facilitate the use of an electronic system of voting in elections to the General Synod.
5. Special amendment 5 inserts two new paragraphs into rule 53 (presiding officer) requiring the Business Committee to nominate an independent body to assist each presiding officer with the conduct of an election that involves electronic voting. Each presiding officer is required to appoint the body that has been nominated by the Business Committee to assist him or her with the conduct of the election. Special amendments 15 and 16 insert related provision in rule 56.
6. Special amendments 6 and 7, 9 to 16 and 20 make amendments to rules that currently refer to "nomination papers" so that they are expressed in a way that allows for nominations to be made by electronic means as well as on paper.
7. Special amendment 8 inserts a new paragraph in rule 54 (entitlement to vote) requiring the secretary of each deanery synod, when checking names and addresses that he is to provide to the diocesan electoral registration officer, to ask each elector who has not provided an email address whether he or she wishes to do so. That will enable email addresses that are provided to be sent to the electoral registration officer for use in accordance with the rules.
8. Special amendment 19 ensures that the General Synod's power to make election rules is wide enough to enable those rules to modify provisions in the Church Representation Rules so that they are compatible with the procedures involved in the use of electronic voting.
9. Special amendment 21 inserts a new paragraph in rule 75 so that a reference in that rule to including something on, or circulating it with, voting papers includes a reference to it being provided as part of the electronic voting system where electronic voting is used for an election.
10. Special amendment 22 amends rule 80 so that any question as to whether a form that has been used is "substantially to the same effect" as the form specified by the Rules is to be decided by the chancellor rather than the bishop. A decision on such a question determines whether proceedings under the Rules are valid and is judicial in nature. It is therefore more appropriate that this function is conferred on the chancellor.

CHURCH REPRESENTATION AND MINISTERS MEASURE**SCHEDULE 1 – NEW CHURCH REPRESENTATION RULES****DRAFTING NOTES****General**

1. The new version of the Church Representation Rules in Schedule 1 to the draft Church Representation and Ministers Measure includes significant new provisions – in particular, new Rules 11 to 13, 56 and 59 and the Model Rules in Part 9.
2. In these Notes, “the CRRs” means the version of the Church Representation Rules currently in force, and “CRR [x]” means the provision of those Rules numbered “[x]”.
3. The new Rules are subject to the transitional provisions in Schedule 3 to the draft Measure, which will ensure, among other things, that existing bodies, offices, memberships, rules, standing orders and so on will continue as before.

Rule 1 (compilation of church electoral roll)

4. Paragraphs (2)(d) and (7) refer to a person who “duly” applies for enrolment, making express what is currently implied by CRR 1(2). Each provision accordingly acknowledges that the electoral roll officer has only a limited discretion in determining an application and would reject it only if there were some procedural defect.
5. Paragraphs (4)(c) and (5)(c) refer to the six months preceding the declaration. The effect of the reference in CRR 1(2)(b) and (c) to the six months before enrolment is not clear. When the declaration is made, enrolment will not have taken place; so it is not possible to ascertain the end of the six-month period or therefore its beginning.
6. Paragraph (8) includes an express reference to the electoral roll officer, whose appointment is dealt with under new Rule M21. The new Rules emphasise the distinction in the CRRs between the PCC, which has the function of keeping the roll, and the electoral roll officer, who discharges that function under the PCC’s direction.
7. Paragraph (13) provides for inspection of the roll by a person making “a reasonable request” instead of a “bona-fide enquirer”, the legalistic description used in CRR 1(1).

Rule 2 (additions to the roll)

8. Paragraph (2) seeks to remove the duplication in CRR 1(7) and Appendix 2 paragraph 1(f) of provisions relating to the electoral roll officer, and instead provides merely for what the officer is to do when additions are made to the roll.

Rule 3 (revision of church electoral roll: notice)

9. Paragraph (2) and subsequent provisions do not restate the reference to affixing the notice to the principal door of a place licensed for public worship as it is not apt in certain cases (a school, for example). Instead, the new Rules provide for the notice to be “displayed” in a location that is “readily visible” to the congregation.

10. The reference to a building licensed for public worship is defined in new Rule 83(5) for the new Rules as a whole. The equivalent provision in the CRRs applies to certain provisions only, but it is not thought necessary to retain that limited application.

Rule 5 (publication of revised roll)

11. Paragraph (4) makes an exception for complying with new Rule 1(2)(b) and (7). The effect of the reference in CRR 2(3) to CRR 1(2) is not clear but it is thought to be a reference to the proviso to CRR 1(2). The same point arises on new Rule 8(4).

Rules 11 to 13 (parish governance: model rules)

12. New Rules 11 to 13 and the model Rules in Part 9 set out new provisions on parish governance, which build significantly on CRR Appendix 2. On new Rule 12, paragraph (1) enables a parish to vary the Model Rules as they apply to the parish. But paragraph (2) protects certain key provisions in the Model Rules from variation.
13. The new Rules do not restate CRR Appendix 2 paragraph 18, which gives the bishop of a diocese power to decide questions of interpretation of the Appendix as it applies in the diocese. It is not thought to be a satisfactory provision. In so far as it ousts a court's jurisdiction to interpret the law, the rule in *Anisminic Ltd. v. Foreign Compensation Commission* [1969] 2 AC 147 applies to protect the bishop's decisions only if they have been properly taken. Even so, different, conflicting decisions on points of interpretation could be taken in different dioceses. Moreover, it is not clear why a function of interpreting the law has been given to bishops.

Rule 15 (deanery synod: house of clergy)

14. Paragraph (4) follows CRR 24(4) in referring to a rural dean. That reference is glossed by section 12(4) of the Church of England (Miscellaneous Provisions) Measure 2000 to include an area dean. It is thought that section 12(4) of that Measure is intended to apply to future enactments and that the gloss will therefore apply here. The same point arises on new Rule 26(2)(a). For ease of reference, an entry has been included in the Index in Part 11 to direct the reader to section 12(4) of that Measure.

Rule 24 (scheme for representation for mission initiatives)

15. This new Rule is based on CRR 27A, which was inserted by section 49(4) of the Dioceses, Pastoral and Mission Measure 2007. Section 49 was repealed and re-enacted by the consolidation in the Mission and Pastoral Measure 2011, though without any saving for section 49(4) as the provision founding CRR 27A. But the intention of the 2011 Measure looks clear; and as a consolidation is generally presumed not to change the law, the effect of section 49(4) can on that basis be taken to continue.

Rule 28 (deanery synod: casual vacancies)

16. Paragraph (3) is based on CRR 48(4), which is intended to be limited to casual vacancies in the house of laity of a deanery synod. The reference in that provision to representatives "who are electors" excludes representatives of the laity elected as members of a PCC.

Rule 31 (diocesan synod: house of clergy)

17. Paragraph (1)(c) refers to a theological education institution as well as to a university, so as to provide a consequential amendment missed on the legislation to implement the previous review of Synod elections (see SI 2014/2133 in particular).

18. Paragraph (4)(a) does not restate the effect of CRR 30(4)(a)(iv), which provides that the University of London is to be treated as being wholly in the diocese of London. It is thought that that provision no longer reflects the position in practice. Paragraph (4)(a) accordingly provides for each college of the University to be treated as a separate university situated in the diocese in which the main site of that college is situated. As a result, Royal Holloway will be treated as being in Guildford diocese and Goldsmith's will be treated as being in Southwark diocese.

Rule 32 (diocesan synod: house of laity)

19. Paragraph (2)(c) is based on CRR 30(5)(c). That provision was amended by paragraph 9 of SI 2004/1889 but the amendment was not correct in that it purported to replace a textual reference to "eighteen" in text which instead referred more obliquely to the voting age at Parliamentary elections. The intention appears clear enough though.

Rule 34 (diocesan synod: restrictions on membership)

20. Paragraph (1) does not restate the reference in CRR 30(7)(b) to the provincial episcopal visitor, given that the Episcopal Ministry Act of Synod 1993 was rescinded in 2014 as part of the package of reforms on women bishops. But the House of Bishops' Declaration on the Ministry of Bishops and Priests, part of the same package, suggests that the functions of the provincial episcopal visitor should remain the same. Accordingly, paragraph (1)(b) expressly provides for suffragan bishops who are chosen to undertake ministry in a parish which has passed a resolution under the Declaration.

Rule 40 (diocesan synod: nomination)

21. Paragraphs (1) to (4) are based on part of CRR 32(4). It appears, on the second sentence of CRR 32(4), that the amendment made by paragraph 10 of SI 1999/2112 removed too much text, with the result that one proposition merges into another.

Rule 42 (diocesan synod: conduct of election)

22. Paragraph (8) provides for the deadline of 1 August to apply to both aspects of the duty. CRR 32(10) is not clear on the point but that is thought to be the intention.

Rule 46 (House of Laity of General Synod: membership)

23. Paragraph (1)(f) seeks to resolve the ambiguity in CRR 35(1)(d) by providing for the election or choice, rather than the determination of that election or choice, to take place "as soon as reasonably practicable after any dissolution of the General Synod".

Rule 49 (House of Laity: numbers)

24. On paragraph (1), the reference to a maximum figure for each province (136 for Canterbury and 59 for York) has been replaced by a reference to a single figure of 195. This removes the conflict there might be if a resolution under paragraph (4)(b) were to specify a proportion between the two provinces other than the current 70:30.

Rule 52 (House of Laity: timing of elections)

25. On paragraph (2), the reference to the Archbishops is replaced by a reference to the Presidents for consistency with the more apt subsequent reference.

Rule 56 (power to make election rules)

26. This provides for the matters currently in CRR 39(2) (part) and (6) to (13) and 40(2) to be provided for instead by the Synod in procedural rules. The matters to be covered correspond largely to those for the clergy in the Clergy Representation Rules. The power in the current provision has been upgraded in the new Rules to a duty. The same change is made on new Rule 59. The transitional provision in paragraph 8 of Schedule 3 to the draft Measure ensures that the current provisions in the CRRs remain in force until the new procedural rules themselves come into force.

Rule 57 (enrolment appeals)

27. Paragraph (4)(b) makes express provision for a notice of appeal to give brief particulars of the grounds of appeal. Equivalent provision is made in Rule 58(7)(b).
28. Paragraph (8)(b) and (c) is based on CRR 43(4), as amended by paragraph 14 of SI 1999/2112. The effect of the reference in CRR 43(4) to publication of a new roll “as provided by rule 2(3)” is not clear. CRR 2(3) relates to the publication of a revised register, while CRR 2(6) relates to the publication of a new register and CRR 1(8) relates to the publication of additions or removals. The reference to CRR 2(3) is therefore not apt for the registers of electors. It is thought that the intention was nonetheless for CRR 43(4) to apply to those registers and the new Rule provides accordingly.

Rule 58 (election appeals)

29. This new Rule is based on CRR 44 but without provision for appeals relating to elections to the House of Laity of the General Synod or to elections of churchwardens. Paragraphs (12) and (13) provide signposts to where those provisions are instead to be found, namely the new Rule 59 and the new section 5A of the Churchwardens Measure 2001 in paragraph 21 of Schedule 2 to the draft Measure.
30. Paragraph (3) is based on CRR 44(6) but does not include the reference to a determination under “this rule” (namely, CRR 44), which looks to be a mistake. Read literally, it produces a circularity; there cannot be an appeal under CRR 44 on the ground of an error in the roll or register unless it has been determined on an appeal under CRR 44 that there has been an error in the roll or register. The reference to “this rule” also jars with the subsequent reference to a pending determination under CRR 43 (which suggests that an enrolment or removal could have been made in error).
31. The history of CRR 44(6) shows how the mistake has arisen. It derives from the previous rule 36A(5), which was inserted by SI 1989/2094. The reference there to “this rule” looks to be left over from the original rule 36(3), which also referred to “this rule”. But that reference was correct as rule 36 dealt with both enrolment appeals and election appeals. It is also worth noting that CRR 44(7), which makes special provision for the diocese in Europe, refers to the rule that corresponds with rule 43.
32. Paragraph (8) is based on CRR 44(4), which is expressed to be subject to CRR 44(6). It is thought that the reference should instead be to CRR 44(5) on the basis that it provides an exception to the general rule for giving notice of appeal. The new Rule is though drafted in a way which avoids the need for the reference at all.
33. Paragraphs (8) and (9) seek to resolve the ambiguity of the reference in CRR 44(4) to “the House of Laity of the General Synod or the diocesan synod” by providing for appeals relating to the house of laity and appeals relating to the house of clergy.
34. Paragraph (8) follows CRR 44(4) in providing that notice of an appeal by the chair of the house of laity of a diocesan synod must be given to the chair himself or herself.

35. Paragraphs (10) and (11) remove the lack of clarity in CRR 44(4)(b) as to what happens where an enrolment appeal is brought before an election appeal and, in all likelihood, will not have been determined within 14 days of the declaration of the result.

Rule 59 (election appeals: power to make rules for House of Laity)

36. Paragraph (2) is based on CRR 44(12) but does not refer to a declaration “in accordance with rule 39”. CRR 39 does not provide for a declaration; paragraph (9) implies that a declaration will follow the count and paragraph (11) provides for a period to begin with the declaration. The reference to CRR 39 is thought superfluous.

Rule 60 (referral of appeal to bishop’s council and standing committee)

37. Paragraph (1) removes the lack of clarity in CRR 43(5) as to when the 14-day period begins to run by providing for it to begin when the notice of appeal is received.
38. Paragraphs (3) to (6) take as their starting point CRR 45(1)(c), the intention of which is not completely clear. The appeal panel will have been appointed after the appeal was lodged and, therefore, after the notice of appeal was given. It is thought that the intention may have been to enable consideration to be given to a notice of appeal given out of time. Paragraphs (3) to (6) accordingly provide for the bishop’s council and standing committee to consider a notice given out of time and decide whether the appeal panel should hear the appeal.
39. Paragraph (7) is based on CRR 45(1)(e) but seeks to bring out more clearly what is thought to be the intention, namely that, until the appeal panel is appointed, the appellant is free to withdraw the appeal but that, once the panel has been appointed, the appellant can withdraw the appeal only with the panel’s consent.

Rule 62 (disqualifications)

40. This new Rule restates part of CRR 46A, though does not include express provision for disqualification of a person who is disqualified under the general law as a charity trustee. Given that a PCC is a charity, a person disqualified as a charity trustee would necessarily be disqualified from membership of the PCC whether as an elected or as an ex officio member. Accordingly, CRR 46A(1)(a) does not add anything. Paragraph (4) seeks to remove any doubt there might otherwise be as to whether the general law will continue to apply to membership of a PCC.

Rule 65 (vacation of seat in House of Laity)

41. This new Rule also does not include provision for disqualification of a person disqualified as a charity trustee from being a member of the House of Laity of the General Synod. That removes the current inconsistency between the Houses, as disqualification as a charity trustee is not a bar to membership of the House of Bishops or the House of Clergy; there is no provision to that effect in Canon H2 or H3 or in the Convocations (Elections to Upper House) Rules or the Clergy Representation Rules.

Rule 77 (implied power to vary or revoke)

42. Paragraph (5) ensures that the power to waive a person’s disqualification from membership etc. of a PCC, where that person has been convicted of a certain type of offence, is not subject to the general power to vary or revoke a decision.

Rule 78 (power of bishop to make supplementary provision)

43. Paragraph (4) provides that, where a PCC has no members or not enough members to form a quorum (and therefore cannot function), the bishop may appoint a person to do whatever the PCC or an officer of its is required to do under the Rules.

Rule 79 (delegation by bishop or archbishop)

44. In paragraphs (3) and (4), the words in brackets seek to remove the lack of clarity in CRR 53(7) and (8) as to which powers are, or are not, capable of delegation.

Rule 83 (interpretation)

45. On paragraph (2), the definition of “actual communicant” does not restate the requirement in CRR 54(1) for a person’s name to be on the roll of a parish. It is thought that the requirement, which was introduced by amendments made in 1994, is a mistake, as it would defeat the purpose of a number of provisions – for example, eligibility for co-option by the house of laity of a deanery or diocesan synod.

Rule M1 (annual meeting: timing and attendance)

46. Paragraph (3)(c) does not restate the words at the end of CRR 6(3)(c) (“without prejudice to a renewal of such declaration”) on the basis that it is not clear how the renewal could be prejudiced.

Rule M6 (annual meeting business: elections and appointments)

47. Paragraph (6) provides a signpost to the new provision for the appointment of sidesmen to be inserted in section 2(2) of the Parochial Church Councils (Powers) Measure 1956 by paragraph 10(2) of Schedule 2 to the draft Measure.

Rule M19 (PCC: chair and vice-chair)

48. Paragraph (3) updates the reference in CRR Appendix 2 paragraph 1(h) to section 20(8A) of the Pastoral Measure 1983, so as to make express the non-textual amendment effected by section 17(2) of the Interpretation Act 1978.

Rule M25 (PCC meetings: notice)

49. Paragraph (7) resolves the ambiguity in CRR Appendix 2 paragraph 4(c) by requiring notice of the reconvened meeting to be given within 14 days of the original meeting date, rather than requiring the meeting itself to be held within those 14 days.

Rule M28 (PCC meetings: minutes)

50. Paragraph (4) does not restate the distinction in CRR Appendix 2 paragraph 12(d) between “minutes” and “past minutes” but instead entitles a member of the PCC to have access to the minutes of any of its meetings.

Rule M30 (PCC: audit of financial statements)

51. Paragraph (2) does not restate the reference in CRR Appendix 2 paragraph 16 to “any statutory modification” of section 155 of the Charities Act 2011. It is not thought that there are or have been modifications of that provision or those from which it derives (given that the 2011 Act is a consolidation). The reference is therefore omitted on the basis that including it for this provision only

could raise a contrary intention for the purposes of section 20(2) of the Interpretation Act 1978 and lead to difficulties interpreting references to other statutory provisions.

Rule M31 (PCC: standing committee)

52. Paragraph (4) provides that the removal of a person appointed by resolution must itself be done by resolution, making express what is thought to be implied by CRR Appendix 2 paragraph 14(a).
53. Paragraphs (6) and (7) are new provisions which seek to define the proper remit of the standing committee. They reflect the position set out in the opinion of the Legal Advisory Commission entitled “Parochial Church Councils” (revised May 2003 and further revised October 2016, paragraphs 18 to 21, and available at www.churchofengland.org/sites/default/files/2017-12/parochial_church_councils.pdf).

Rule M32 (PCC: other committees)

54. Paragraph (2) gives the minister a power to choose whether to serve on committees; the current provision, in requiring the minister to serve on them, is regarded as burdensome in practice.

Rule M34 (parishes with more than one place of worship)

55. Paragraph (2) provides for the scheme itself to delegate functions rather than providing a mechanism for that to be done. The reference in CRR 18(4) to “provision for the delegation” of functions does not accurately reflect the policy intention. Corresponding provision is made in new Rule M35(3).

Rules M37 to M42 (joint councils)

56. These new Rules make significant new provision which is to replace the current provisions enabling the creation of joint councils in addition to individual PCCs. Instead, any two or more connected parishes (with “connected” being defined in new Rule M37(4)) are to have power to make a scheme for forming a joint council in place of the separate PCCs. Where such a scheme is in force, the property, rights and liabilities of the PCCs concerned will automatically vest in the joint council. Each PCC will continue to exist but will, in effect, be abeyance and will not carry out any functions. By virtue of new Rule 77, the scheme can be varied or revoked.

Part 10 (Forms)

57. These provisions reproduce the existing Forms with whatever consequential amendments to the Notes etc. are required. New Rule 84(3) provides the necessary link between this Part and the references in the new Rules to particular Forms. The transitional provision in paragraph 11 of Schedule 3 ensures that existing forms will continue to be valid.

Schedule 2: consequential amendments

58. Paragraph 5(2) and (3) amend the City of London (Guild Churches) Act 1952 so as to replace each reference to a rural-decanal conference with a reference to a deanery synod. That is the clear intention of section 5(2) of the Synodical Government Measure 1969; the absence of a reference there to Acts, alongside the reference to Measures, is thought to be an oversight.
59. Paragraph 12 inserts a new section 8A in the Parochial Church Councils (Measure) 1956 to include a general provision about filling vacant offices in parishes. The 1956 Measure is thought to provide a more suitable location than the new Rules.

60. Paragraph 23 inserts a new section 5A in the Churchwardens Measure 2001, subsection (4) of which does not restate the right of appeal which CRR 44(2)(c), when read literally, appears to give to the chair of the house of laity or house of clergy.