

# GENERAL SYNOD

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## JULY GROUP OF SESSIONS 2019

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### FIRST NOTICE PAPER

### FIFTY FIFTH REPORT OF THE STANDING ORDERS COMMITTEE (GS 2143)

*Mr Geoffrey Tattersall QC (Manchester)* to move in respect of items 36 to 41 ‘That this amendment be made with effect from 10th July 2019.’:

### **Standing Order 40 (Standing orders: motions for amendment)**

32. In Standing Order 40, for paragraph (6) substitute—

- “(6) If notice under paragraph (5)(a) or (b) is received, the Chair must determine whether there are any amendments which are consequential or otherwise dependent on the proposed amendment in question.
- (7) Where the Chair determines under paragraph (6) that there are such amendments—
  - (a) the amendments in question are not deemed as approved for the purposes of paragraph (5), and
  - (b) the determination must be set out in a notice paper.
- (8) When the item on the agenda consisting of the proposed amendment is reached, the Chair must call upon the Chair or another member of the Standing Orders Committee to move a motion “That this amendment be made”; the debate then continues in the usual way.”

### **Standing Order 113 (content)**

33. In Standing Order 113, in paragraph (6), omit “deciding whether to give permission under paragraph (3A) or”.

### **Standing Order 132 (nominations)**

34. In Standing Order 132, in paragraph (4), after “nominated” insert “is qualified to be a candidate for the election and”.

35. In Standing Order 132, after paragraph (7) insert—

“(8) The Clerk must—

(a) scrutinise each nomination as soon as it is received, and

(b) without delay, inform the candidate whether the nomination is valid.

(9) If the Clerk rules that a nomination is not valid, the Clerk must give reasons for that ruling.

(10) A person is not to be included as a candidate for the election if the Clerk has not received a valid nomination for that person before the end of the period for nominations appointed under paragraph (7).”

### **Standing Order 135 (appeals)**

36. For Standing Order 135 substitute—

#### **ELECTION APPEALS**

##### **135. Right of appeal**

(1) An appeal may be made against a ruling by the Clerk under SO 132(8) that a nomination is not valid.

(2) An appeal may be made against the allowance or disallowance of a vote in a relevant election.

(3) An appeal may be made against the result of a relevant election.

- (4) An appeal under paragraph (1) may be brought by the person to whom the nomination relates.
- (5) An appeal under paragraph (2) or (3) may be brought by—
  - (a) a candidate in the election, or
  - (b) a member entitled to vote in the election.
- (6) On an appeal under this Standing Order, a person who was declared elected but whose election is or may be affected by the appeal is to be regarded for all purposes as elected pending the determination of the appeal.

### **135A. Grounds of appeal**

- (1) An appeal against a ruling by the Clerk under SO 132(8) that a nomination is not valid may be brought on the grounds that the nomination was valid and that the person should, accordingly, have been included as a candidate for the election in question.
- (2) An appeal against the allowance of a vote in a relevant election may be brought on the grounds that the vote should have been disallowed.
- (3) An appeal against the disallowance of a vote in a relevant election may be brought on the grounds that the vote should have been allowed.
- (4) An appeal against the result of a relevant election may be brought on the grounds that a person whose election is the subject of the appeal—
  - (a) was not duly elected,
  - (b) was not qualified to be a candidate at the time of the election, or
  - (c) before the election, misrepresented a material fact in connection with the election.

- (5) An appeal against the result of a relevant election may be brought on the grounds that the conduct of the election was such as to affect the outcome of the election.
- (6) A ruling that a nomination is not valid is not a ground of appeal against the result of an election, and the allowance or disallowance of a vote is not a ground of appeal against the result of an election, unless the ruling or (as the case may be) the allowance or disallowance would or might be material to the outcome of the election.

**135B. Notice of appeal**

- (1) Notice of an appeal under SO 135—
  - (a) must be in writing,
  - (b) must give brief particulars of the grounds of appeal, and
  - (c) may be accompanied by written submissions.
- (2) Notice of the appeal must be given to the Clerk no later than—
  - (a) the end of the period of 14 days beginning with the day after the date of the declaration of the result of the election to which the notice relates, or
  - (b) in a case where the Business Committee specifies a later date, that later date.
- (3) The Clerk, having received a notice of appeal under paragraph (2), must—
  - (a) give a written notification to each candidate in the election, and
  - (b) refer the notice to the relevant office holders.

- (4) If a purported notice of appeal under paragraph (2) is given out of time, the Clerk must refer the notice to the relevant office holders.
- (5) The relevant office holders are—
  - (a) in a case involving an election by the House of Bishops, the Chair and Vice-Chair of that House;
  - (b) in a case involving an election by the House of Clergy, the Prolocutors of the Convocations;
  - (c) in a case involving an election by the House of Laity, the Chair and Vice-Chair of that House;
  - (d) in any other case, the Chair of the House of Bishops, the Prolocutor of the Convocation who is for the time being the Chairman of the House of Clergy under the Standing Orders of that House, and the Chair of the House of Laity.
- (6) Where a relevant office holder is directly concerned in an appeal, the Standing Committee of the House concerned must nominate a deputy to exercise the function in relation to that appeal.

### **135C. Appeal panel**

- (1) The relevant office holders, on receiving a referral under SO 135B(3)(b), must appoint a Chair and two other persons to serve as a panel to hear the appeal.
- (2) The relevant office holders, on receiving a referral under SO 135B(4), must appoint a Chair and two other persons to serve as a panel to decide whether, even though the purported notice of appeal was given out of time, the panel will nonetheless hear the appeal.
- (3) A person may not be appointed to a panel under this Standing Order unless the person is a member of the Synod.

- (4) In making the appointments under this Standing Order, the relevant office holders must be satisfied that the persons appointed, taken together, have suitable legal or other experience or expertise.
- (5) Appointments under this Standing Order must be made before the end of the period of 28 days beginning with the day on which the notice of appeal is given under SO 135B.
- (6) “Relevant office holders” has the meaning given in SO 135B(5).

**135D. Preliminary assessment**

- (1) A panel appointed under SO 135C(1) must conduct a preliminary assessment of the appeal.
- (2) A preliminary assessment of an appeal is an assessment, based only on the notice of appeal and any accompanying written submissions, as to whether there are arguable grounds of appeal.
- (3) If the panel considers that there are arguable grounds of appeal, the appeal stands referred to the panel for consideration and determination under SO 135F and SO 135G.
- (4) If the panel considers that there are no arguable grounds of appeal, the appeal is dismissed.
- (5) The panel’s decision on the preliminary assessment is final.
- (6) The panel must notify the parties to the appeal of its decision on the preliminary assessment of the appeal and must give the reasons for its decision.
- (7) The panel’s decision and its reasons for its decision must be published.

**135E. Appeal out of time**

- (1) A panel appointed under SO 135C(2) may decide to hear the appeal only if the panel is satisfied that there was a good reason for not giving notice of appeal within the period under SO 135B(2).
- (2) Where the panel decides to hear the appeal—
  - (a) the period under SO 135B(2) for giving notice of appeal in that case is to be treated as having been extended so far as necessary,
  - (b) the appeal is to be treated as having been referred to the panel for decision under SO 135D, and
  - (c) the panel may immediately proceed to conduct a preliminary assessment of the appeal under SO 135D.

#### **135F. Consideration of matters at issue**

- (1) A panel to which an appeal is referred under SO 135D must, in deciding the matter at issue, consider all the circumstances; and for that purpose the panel—
  - (a) may inspect documents or other papers relating to the subject-matter of the appeal, and
  - (b) is entitled to be provided with such information relating to the appeal as the panel may require.
- (2) The panel must give the parties to the appeal an opportunity to appear before it in person or by a legal or other representative.
- (3) A hearing under paragraph (2) is to be held in public unless the panel, having regard to all the circumstances, is satisfied that it would be in the interests of justice for the hearing to be held in private.

#### **135G. Determination of appeal**

- (1) On an appeal under SO 135, the panel must decide whether the grounds of the appeal are established to the panel's satisfaction.
- (2) Where, on an appeal against the result of an election, the panel decides that the election as a whole is void, it must—
  - (a) direct that a fresh election is to be held, and
  - (b) give whatever further directions it thinks necessary.
- (3) Where, on an appeal against the result of an election, the panel allows the appeal but does not decide that the election as a whole is void, it must give whatever directions it thinks necessary.
- (4) The panel on an appeal against the result of an election must otherwise decide—
  - (a) that the matter at issue amounts to a minor infringement which did not affect the outcome of the election and the appeal should accordingly be dismissed, or
  - (b) that the matter at issue amounts to a procedural irregularity in the conduct of the election but the appeal should nonetheless in all the circumstances be dismissed.
- (5) The panel's decision on the appeal is final as to the matters at issue.
- (6) The panel's decision and its reasons for its decision must be published."

**Standing Order 136 (Crown Nominations Commission: functions)**

37. In Standing Order 136, in paragraph (3), for the words from “the names” to the end substitute “the name of one candidate for submission to the Prime Minister.”
38. In Standing Order 136, after paragraph (3) insert—

“(3A)The Commission may also agree upon the name of a second candidate for submission to the Prime Minister, but with that candidate’s name to be kept in reserve for the contingency that it becomes impossible to appoint the candidate whose name was agreed upon under paragraph (3).”

**Standing Order 141 (Crown Nominations Commission: business and procedure)**

39. In Standing Order 141, after paragraph (6) insert—

“(6A)Where it becomes impossible to appoint the candidate whose name was agreed upon under SO 136(3) and the Commission has agreed upon the name of a second candidate under SO 136(3A), the name of that second candidate automatically becomes the name selected for submission to the Prime Minister, unless it has also become impossible to appoint that second candidate.”
40. In Standing Order 141, omit paragraphs (7) to (9).
41. In Standing Order 141, in paragraph (10), for “Names are to be submitted” substitute “The name selected is to be submitted”.

**Notes:**

1. The Business Committee has determined under Standing Order 40(5) that the proposed amendments to Standing Orders contained in items 32 to 35 of this Notice Paper do not need to be debated.

2. Under Standing Order 40(5) those amendments will accordingly be deemed to have been approved by the Synod without amendment unless either:
- notice is given by **not less than 5 members** by 5.30 p.m. on Friday 5<sup>th</sup> July that they wish a proposed amendment to be debated; or
  - notice is given by 5.30 p.m. on Tuesday 2<sup>nd</sup> July of an amendment to any proposed amendment.