

# GENERAL SYNOD

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## FEBRUARY GROUP OF SESSIONS 2020

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### FIRST NOTICE PAPER

#### **FIFTY-SIXTH REPORT OF THE STANDING ORDERS COMMITTEE (GS 2157)**

*Mr Geoffrey Tattersall QC (Manchester)* to move in respect of the following items: ‘That this amendment be made with effect from 14 February 2020’.

#### **Standing Order 123 (vacancy in see)**

18. In Standing Order 123, for the title substitute “Absence from diocese and vacancy in see”.

19. In Standing Order 123, for paragraph (1) substitute—

“(1) Where a bishop who is not a member of the House of Bishops is exercising functions of a diocesan bishop under an instrument made under section 14 of the Dioceses, Pastoral and Mission Measure 2007, the bishop may attend and speak, but not vote, in place of the diocesan bishop at a group of sessions.”

20. In Standing Order 123, in each of paragraphs (3), (4) and (5), omit “suffragan”.

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

21. In Standing Order 132, in paragraph (8)(b), after “the candidate” insert “and the proposer and seconder”.

22. In Standing Order 132, in paragraph (9), after “the candidate” insert “and the proposer and seconder”.

23. In Standing Order 132, in paragraph (9), for “him or her” substitute “each of them”.

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

24. For Standing Order 135 substitute—

### **“ELECTION APPEALS**

#### **135.** *Appeals relating to eligibility to vote*

(1) An appeal may be made against the failure to circulate an invitation to nominate under SO 132(1) or a voting paper under SO 133(1) to a person entitled to vote in a relevant election on the grounds that the person is entitled to vote in the election and should, accordingly, be given an invitation to nominate or voting paper.

(2) An appeal may be made against the circulation of an invitation to nominate under SO 132(1) or a voting paper under SO 133(1) on the grounds that the person to whom it was circulated is not entitled to vote in the relevant election and should not, accordingly, have been given an invitation to nominate or voting paper.

(3) An appeal under paragraph (1) may be brought by the person to whom an invitation to nominate or voting paper was not circulated.

(4) An appeal under paragraph (2) may be brought by a person who is entitled to vote in the election.

#### **135A.** *Appeals relating to nominations*

(1) An appeal may be made against a ruling by the Clerk under SO 132(8) that a nomination is not valid on the grounds that the nomination is valid and that the person should, accordingly, be included as a candidate for the relevant election.

(2) An appeal may be made against a ruling by the Clerk under SO 132(8) that a nomination is valid on the grounds that the nomination is not valid and that the person should, accordingly, not be included as a candidate for the relevant election.

(3) An appeal under paragraph (1) or (2) may be brought only by an elector in the election.

**135B.** *Appeals against election result*

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

(2) An appeal may be made against the result of a relevant election on the grounds that—

- (a) a person who was entitled to vote was not allowed to vote, or
- (b) a person who was not entitled to vote was allowed to vote.

(3) An appeal against the result of a relevant election may be made on the grounds that the conduct of the election was such as to affect the outcome of the election.

(4) An appeal against the result of a relevant election may be made on the grounds that a vote which was allowed should have been disallowed, or that a vote which was disallowed should have allowed, but only if the allowance or disallowance of the vote would or might be material to the outcome of the election.

(5) An appeal may not be brought under paragraph (1)(b) if—

- (a) the grounds of the appeal are to the effect that the nomination of the person whose election is the subject of the appeal was not valid, and

(b) an appeal on grounds to that effect was brought under SO 135A(2) before the election.

(6) An appeal may not be brought under paragraph (2) if an appeal on grounds to the effect provided for under that paragraph was brought under SO 135(1) or (2).

(7) An appeal under this Standing Order may be brought by a candidate or elector in the election.

(8) 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.

### **135C. Appeal procedures**

(1) Each of the following appeals (referred to in these Standing Orders as a “summary election appeal”) is to be dealt with in accordance with SOs 135D to 135F—

- (a) an appeal under SO 135(1) or (2) (eligibility to vote);
- (b) an appeal under SO 135A(1) or (2) (validity of nomination);
- (c) an appeal under SO 135B(1)(a) or (b) (whether person duly elected or qualified to be candidate);
- (d) an appeal under SO 135B(2) (entitlement to vote);
- (e) an appeal under SO 135B(4) (allowance or disallowance of vote).

(2) Each of the following appeals (referred to in these Standing Orders as a “full election appeal”) is to be dealt with in accordance with SOs 135G to 135M—

- (a) an appeal under SO 135B(1)(c) (misrepresentation of material fact);

- (b) an appeal under SO 135B(3) (conduct of election).

**135D.**     *Summary election appeal: notice*

- (1) Notice of a summary election appeal—

- (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 a summary election appeal must be given to the Clerk.

- (3) Notice of an appeal under SO 135(1) or (2) (appeal relating to eligibility to vote) must, if possible, be given before the end of the period for voting appointed under SO 133(2).

- (4) If it is not possible to give notice of an appeal under SO 135(1) or (2) before the end of the period for voting appointed under SO 133(2), it must be given no later than two days after the day on which the result of the election is declared.

- (5) Notice of an appeal under SO 135A(1) (appeal against ruling that nomination not valid) must be given no later than two days after the day on which the person to whom the nomination relates and the proposer and seconder are notified of the Clerk's ruling.

- (6) Notice of an appeal under SO 135A(2) (appeal against ruling that nomination valid) by an elector must be given no later than two days after the day on which the elector receives an invitation to vote in the election.

- (7) Notice of an appeal under SO 135B(1)(a) or (b) (appeal relating to whether person duly elected or qualified to be candidate) must be given no later than two days after the day on which the result of the election is declared.

(8) Notice of an appeal under SO 135B(2) (appeal relating to entitlement to vote) must be given no later than two days after the day on which the result of the election is declared.

(9) Notice of an appeal under SO 135B(4) (appeal against allowance or disallowance of vote) must be given no later than two days after the day on which the vote in question was allowed or disallowed.

**135E.**     *Summary election appeal: referral to relevant judge*

(1) The Clerk, having received notice of a summary election appeal, must without delay (and in any event within 48 hours of receiving it unless in the meantime written notice is given to withdraw the appeal)—

- (a) give a written notification to each candidate in the election, and
- (b) refer the notice to the relevant judge.

(2) The “relevant judge” is—

- (a) the Dean of the Arches and Auditor, or
- (b) if the Dean of the Arches and Auditor declines or is unable to act as such, the Vicar-General of the Province of Canterbury or the Vicar-General of the Province of York, or
- (c) if each of them declines or is unable to act as such, the chancellor of such diocese as the Dean of the Arches and Auditor nominates.

**135F.**     *Summary election appeal: determination*

(1) The relevant judge (referred to in this Standing Order as “the judge”), having had a notice of appeal referred under SO 135E, must decide whether the grounds of the appeal are established to the judge’s satisfaction.

(2) The judge, in deciding the matter at issue, may consider only—

- (a) the notice of appeal and any accompanying written submissions, and
- (b) if, before the end of the period referred to in paragraph (3), the Clerk provides the judge with a written explanation of the reasons for making a decision to which the appeal relates, that written explanation.

(3) A decision under this Standing Order must be made within seven days of the referral of the notice of appeal.

(4) Where the judge decides on an appeal under SO 135(1) that a person is entitled to vote, or decides on an appeal under SO 135(2) that a person is not entitled to vote, the judge must give whatever directions the judge thinks necessary.

(5) Where the judge decides on an appeal under SO 135A(1) that a nomination is valid, or decides on an appeal under SO 135A(2) that a nomination is not valid, the judge must—

- (a) give directions for the appointment of a new period under SO 133(2), and
- (b) give whatever further directions the judge thinks necessary.

(6) Where, on an appeal under SO 135B(1)(a) or (b), (2) or (3), the judge decides that the election as a whole is void, the judge must—

- (a) direct that a fresh election is to be held, and
- (b) give whatever further directions the judge thinks necessary.

(7) Where, on an appeal under SO 135B(1)(a) or (b), (2) or (3), the judge allows the appeal but does not decide that the election as a whole is void, the judge must give whatever directions the judge thinks necessary.

(8) The judge on a summary election appeal must otherwise decide one of the following—

- (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;
- (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;
- (c) that the appeal is wholly without merit and should accordingly be dismissed.

(9) The judge's decision on a summary appeal is final as to the matters at issue.

(10) Where the judge directs under paragraph (6)(a) that a fresh election is to be held, the date on which the direction is given is the date on which a casual vacancy occurs for the purposes of these Standing Orders.

(11) The judge must notify the parties to the appeal of the decision on the appeal and must give reasons for the decision.

(12) The judge's decision and the reasons for the decision must be published on the Synod website at the same time as the parties are notified of the decision.

**135G.** *Full election appeal: notice*

(1) Notice of a full election appeal—

- (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 a full election appeal must be given to the Clerk no later than 14 days after the day on which result of the election is declared.

**135H.** *Full election appeal: referral to relevant office holders*

(1) The Clerk, having received notice of a full election appeal, must without delay (and in any event within 48 hours of receiving it unless in the meantime written notice is given to withdraw the appeal)—

- (a) give a written notification to each candidate in the election, and
- (b) refer the notice to the relevant office holders.

(2) If a purported notice of a full election appeal is given out of time, the Clerk must without delay (and in any event within 48 hours of receiving it unless in the meantime written notice is given to withdraw the appeal)—

- (a) give a written notification to each candidate in the election, and
- (b) refer the notice to the relevant office holders.

(3) 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.

(4) 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 functions of the relevant office holder in relation to that appeal.

(5) Once a notice of appeal is referred under this Standing Order, the appellant may withdraw it only with the consent of the panel appointed under SO 135I to decide the matter.

**135I. Full election appeal: panel**

(1) The relevant office holders, on receiving a referral under SO 135H(1), must appoint a Chair and two other persons to serve as a panel to decide the appeal.

(2) The relevant office holders, on receiving a referral under SO 135H(2), 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 consider the appeal.

(3) 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.

(4) A person may not be appointed under this Standing Order unless the person is a member of the Synod.

(5) A person may not be appointed under this Standing Order if the person might have a benefit from the outcome of the election.

(6) 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 135G.

(7) "Relevant office holders" has the meaning given in SO 135H(3).

**135J.** *Full election appeal: preliminary assessment*

(1) A panel appointed under SO 135I(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 SOs 135L and 135M.

(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 the decision on the preliminary assessment of the appeal and the reasons for its decision.

(7) The panel's decision and the reasons for the decision must be published on the Synod website at the same time as the parties are notified of the decision.

**135K.** *Full election appeal: appeal out of time*

(1) A panel appointed under SO 135I(2) may decide to consider 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 135G(2).

(2) Where the panel decides to consider the appeal—

(a) the period under SO 135G(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, and

- (c) the panel may immediately proceed to conduct a preliminary assessment of the appeal under SO 135J.

(3) The panel must notify the parties to the appeal of the decision on whether the panel will consider the appeal and must give reasons for the decision.

(4) The panel's decision and the reasons for the decision must be published on Synod website at the same time as the parties are notified of the decision.

**135L.** *Full election appeal: consideration of matters at issue*

(1) The panel to which a full election appeal is referred must, in deciding the matter at issue, consider all the circumstances; and for that purpose—

- (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 each party to the appeal an opportunity—

- (a) to appear before the panel in person or by a legal or other representative, or
- (b) if that party does not wish to take that opportunity, to make written representations on the matter at issue.

(3) A hearing under paragraph (2)(a) 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.

**135M.** *Full election appeal: determination*

(1) On a full election appeal, the panel must decide whether the grounds of the appeal are established to the panel's satisfaction.

(2) Where 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 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 must otherwise decide one of the following—

- (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;
- (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;
- (c) that the appeal is wholly without merit and should accordingly be dismissed.

(5) The panel's decision on the appeal is final as to the matters at issue.

(6) Where the panel directs under paragraph (2)(a) that a fresh election is to be held, the date on which the direction is given is the date on which a casual vacancy occurs for the purposes of these Standing Orders.

(7) The panel's decision and the reasons for it must be published on the Synod website."

