

GENERAL SYNOD
VACANCY IN SEE COMMITTEES REGULATION

Explanatory Memorandum

1. The draft Vacancy in See Committees Regulation consolidates, with corrections and minor improvements, the Vacancy in See Committees Regulation 1993 and the subsequent Amendment Regulations of 2003, 2007, 2008, 2013, 2021 and 2023. The draft Regulation is a “consolidation instrument” as defined by SO 71(9) and the definition of “corrections and minor improvements” in SO 63 applies accordingly.
2. Part 2 deals with membership of a Vacancy in See Committee and sets out the three categories of membership – ex officio, elected and nominated. Part 2 also makes provision for casual vacancies.
3. Part 3 deals with the business and procedure of the Committee. In particular, it enables meetings of the Committee to be held remotely.
4. Part 4 deals with the steps to be taken where there is a vacancy of the bishopric. In particular, it provides for the election of members of the Committee to the Crown Nominations Commission. It also gives the archbishop power in certain circumstances to direct the Committee not to proceed with its considerations on the vacancy.
5. Part 5 contains miscellaneous provisions. In particular, it includes transitional provisions to ensure the smooth continuity of the law from the revocation of the existing law to the commencement of the new law.
6. Drafting notes, which are annexed to this explanatory memorandum, have been prepared by Legislative Counsel. These explain the approach taken in relation to a handful of points which arose in preparing the consolidation.
7. A table of origins and a table of destinations are also annexed to this explanatory memorandum.

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ANNEX
DRAFTING NOTES

Paragraph 2 (interpretation)

1. On sub-paragraph (2), the reference to Rule 75 of the Church Representation Rules (which makes provision about STV constraints) has been added to bring consistency with equivalent provisions in the election rules for the General Synod. This addition will bring the new Regulation into conformity with the existing law.

Paragraph 4 (ex officio members)

2. Sub-paragraph (2) makes special provision for the diocese of Salisbury (to restate the effect of the Amendment Regulation of 2023). Sub-paragraph (2)(b) makes express what is currently implied by stating that the elected General Synod members who have ex officio membership of the Committee include, in the case of the diocese of Salisbury, the two members elected to the Synod under the Channel Islands (Representation) Measure 1931 (and referred to in Rule 46(1)(b) of the Church Representation Rules). This provision removes any doubt there might otherwise be.

Paragraph 5 (elected members)

3. Sub-paragraph (2) expressly provides that it is for the bishop's council to decide whether to increase from two the number of clerks in Holy Orders or the number of lay persons to be elected to the Committee. The current Regulation does not specify who is to make that decision but it is understood that, in practice, the bishop's council does so. This addition will bring the new Regulation into conformity with modern practice and improve the manner in which the law is stated.
4. On that point, it is to be noted that this paragraph and paragraph 6 refer to the bishop's council rather than to the bishop's council and standing committee, which is the form of wording used in paragraph 1(c) of the current Regulation. The current Regulation veers between the full reference and the abbreviated one. For the sake of clarity and consistency, this consolidation refers throughout just to the bishop's council.
5. On sub-paragraph (3), the reference to members of either the house of clergy or the house of laity of a diocesan synod updates the reference in paragraph 2(b) of the current Regulation to "the appropriate House". The need for a consequential amendment to that effect was overlooked in the Amendment Regulation of 2021 and this change corrects that oversight and accordingly improves the manner in which the law is stated.

Paragraph 6 (nomination)

6. On sub-paragraph (3), paragraph (a) makes express what is currently implied by specifying when a nominated member's term of office begins. This brings consistency with paragraph 5(5)(a) and accordingly improves the manner in which the law is stated.

Paragraph 7 (casual vacancies)

7. On sub-paragraphs (1) and (3), the requirement in the current Regulation for a vacancy to be filled within six months is restated. There is no express provision for what is to happen if the vacancy is not filled within that period. It is thought that, in practice, the bishop would exercise the direction-making power under paragraph 16(1)(b) (which restates paragraph 6(a)(ii) of the current Regulation).
8. On sub-paragraph (2), the reference to members of both Houses, and to them constituting a single electorate, updates the reference in paragraph 3(a) of the current Regulation to “the House concerned”. The need for a consequential amendment to that effect was overlooked in the Amendment Regulation of 2021 and this change corrects that oversight and accordingly improves the manner in which the law is stated.

Paragraph 8 (officers)

9. Sub-paragraph (6) provides that a member of the Committee who is appointed Secretary automatically ceases to be a member. The current provision in paragraph 4(c) requires the Secretary to resign as a member but that would appear an unnecessary procedural step and so this change removes an unnecessary provision.

Paragraph 11 (guidance on procedure etc.)

10. Sub-paragraph (2)(a) refers to the bishop of “the” diocese, so as to neutralise a residual piece of gender-specific drafting in paragraph 4(g)(i) of the current Regulation.

Paragraph 13 (election of members of Crown Nominations Commission)

11. Sub-paragraph (9) does not restate the restriction in paragraph 5(b) of the current Regulation on the number of suffragan or assistant bishops who may be elected to the Committee, as that is no longer correct in consequence of the prohibition on episcopal membership of the Committee. The need for a consequential amendment to that effect was overlooked in the Amendment Regulation of 2021 and this change corrects that oversight and accordingly removes an unnecessary provision.
12. Sub-paragraph (9) also does not restate the definition of “National Church Institutions” in paragraph 5(b) of the current Regulation. That definition refers to section 6 of the National Institutions Measure 1998, which no longer produces the right result for the purposes of the Regulation. Accordingly, it is preferable to leave the expression undefined and for it to have its natural meaning. This change thus removes an unnecessary provision.

Paragraph 14 (death, resignation etc. of member elected to CNC)

13. On sub-paragraph (1), the reference to a name that is submitted to the Prime Minister replaces the reference to two names in paragraph 5(c) of the current Regulation and therefore reflects Standing Order 136(3) of the General Synod. This change will bring the Regulation into conformity with the existing law.

Paragraph 15 (direction of archbishop not to proceed with vacancy)

14. Sub-paragraph (3) does not restate the condition in paragraph 5A(b) of the current Regulation that the direction-giving power may be exercised only if the archbishop “thinks fit”, as that goes without saying on the basis of the usual administrative law principles.

Table of Origins

<i>New provision</i>	<i>Old provision</i>
2 (1)	7A(a)
2 (2)	2(c) (part), 5(b) (part)
3 (1)	1(a) (part)
3 (2)	1(a) (part) and (c) (part)
3 (3)	1(d)
3 (4)	3(d)
4 (1)	1(a) (part)
4 (2)	1(e)
4 (3)	1(a) (part)
4 (4)	1(a) (part)
4 (5)	7A(b) (part)
5 (1)	1(a) (part), 2(a) (part)
5 (2)	1(b)
5 (3)	2(b)
5 (4)	2(c) (part)
5 (5)	2(a) (part)
5 (6)	7A(b) (part)
6 (1) to (3)	1(c)
7 (1) to (3)	3(a)
7 (4)	3(c)
8 (1) and (2)	4(a)
8 (3)	4(b)
8 (4) to (6)	4(c) (part)
9 (1)	4(c) (part)
9 (2)	4(d)
9 (3)	4(e)
9 (4)	4(f)
10 (1) to (4)	5B(a) to (d)
11 (1) to (3)	4(g)
12 (1) to (4)	5(a)
13 (1) to (9)	5(b)
13(10)	7A(b) (part)
14 (1) and (2)	5(c)
14 (3)	5(d)
15 (1) and (2)	5A(a)
15 (3)	5A(b)
15 (4)	5A(c)
15 (5)	5A(d)
15 (6)	5A(e)
16 (1)	6(a)
16 (2)	6(b)
16 (3)	6(d)
17	6(c)

Table of Destinations

<i>Old provision</i>	<i>New provision</i>
1 (a)	3(1) and (2), 4(1), (3) and (4), 5(1)
(b)	5(2)
(c)	3(2), 6(1) to (3)
(d)	3(3)
(e)	4(2)
2 (a)	5(1) and (5)
(b)	5(3)
(c)	2(2), 5(4)
3 (a)	7(1) to (3)
(b)	<i>Repealed</i>
(c)	7(4)
(d)	3(4)
4 (a)	8(1) and (2)
(b)	8(3)
(c)	8(4) to (6), 9(1)
(d)	9(2)
(e)	9(3)
(f)	9(4)
(g)	11(1) to (3)
5 (a)	12(1) to (4)
(b)	2(2), 13(1) to (9)
(c)	14(1) and (2)
(d)	14(3)
5A(a)	15(1) and (2)
(b)	15(3)
(c)	15(4)
(d)	15(5)
(e)	15(6)
5B (a) to (d)	10(1) to (4)
6 (a)	16(1)
(b)	16(2)
(c)	17
(d)	16(3)
7A (a)	2(1)
(b)	4(5), 5(6), 13(10)