

GENERAL SYNOD
THE DRAFT CLERGY DISCIPLINE (AMENDMENT) RULES 2024
Explanatory Notes

The Clergy Discipline Rules 2005 provide the procedural framework for dealing with allegations of misconduct under the Clergy Discipline Measure 2003. These amendments are made for the carrying into effect of the provisions of the Measure and concern accessing the Archbishops' List.

Background

1. The Clergy Discipline Rules 2005 provide the procedural framework for dealing with cases of misconduct under the Clergy Discipline Measure 2003 ("CDM").
2. Section 83 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 gives the Rule Committee the power to make rules for the carrying into effect of the provisions of the CDM.
3. A copy of the existing rules can be accessed here: [CDRules as amended & published July21 \(churchofengland.org\)](https://www.churchofengland.org/cdrules).
4. The amendments concern who may access the Archbishops' List.
5. The Archbishops' List is a statutory document maintained jointly by the archbishops and administered by Lambeth Palace. It operates as a record of all penalties and other orders that are made in connection with the operation of clergy discipline.
6. There are six grounds under which a cleric may be placed on the List. Section 38 CDM 2003 provides -

38 Archbishops' list

(1) Subject to the following provisions of this section, it shall be the duty of the archbishops acting jointly to compile and maintain a list of all clerks in Holy Orders—

- (a) on whom a penalty or censure (by consent or otherwise) has been imposed under this Measure or the 1963 Measure; or
- (b) who have been deposed from Holy Orders under the 1963 Measure; or
- (c) who have executed a deed of relinquishment under the Clerical Disabilities Act 1870 (c. 31); or
- (d) who have resigned preferment following the making of a complaint in writing against them under section 10(1) above or under the 1963 Measure; or
- (dd) whose name is included in a barred list; or

(e) who, in the opinion of the archbishops, have acted in a manner (not amounting to misconduct) which might affect their suitability for holding preferment.

7. Access to the List is governed by rule 74 of the Clergy Discipline Rules 2005 –

Access to the list

74.—(1) There shall be a single list compiled and maintained jointly by the archbishops for the purposes specified in section 38(1) of the Measure, and the list shall be in the custody of the Archbishop of Canterbury.

(2) A copy of the list shall be in the custody of the Archbishop of York.

(3) Subject to the provisions of section 38(2) and section 38(3) of the Measure, the list shall not be open to public inspection but shall be made available to the President, diocesan bishops of the Church of England, registrars and the Designated Officer.

- 8.** The List operates as an important safeguarding tool. It ensures that, for example, where a bishop is considering granting a clergy person a form of authority to exercise ministry the bishop is aware of information relevant to that decision. The List is also checked where clergy move diocese and the sending bishop writes a Current Clergy Status Letter (“CCSL”) to the receiving bishop.
- 9.** Presently, the List is only made available to diocesan bishops. The List is accessed online via a secure two-factor authentication system. In many dioceses decisions to grant authority to minister are taken by the relevant suffragan bishop. Likewise, it is the suffragan bishop of the area where the clergy person ministers who will write the CCSL. Accordingly, it is necessary to expand the scope of those to whom the List is made available to include suffragan as well as diocesan bishops. It is not necessary to make separate provision for ‘area bishops’ as they fall within the definition of suffragan bishop who have received delegated functions limited to a particular geographical area under section 13(3) of the Dioceses, Pastoral and Mission Measure 2007.
- 10.** The amendments also make provision for those who have been appointed a deputy or temporary diocesan or provincial registrar to access the List.

Notes on the Rules

Rule 1 – Citation, commencement and interpretation

- 11.** Paragraph (1) provides that the Rules may be cited as the Clergy Discipline (Amendment) Rules 2024.
- 12.** Paragraph (2) provides for the coming into force of the Rules on the day after what which they are laid before Parliament.

Rule 2 – The Archbishops’ list

- 13.** This amendment widens access to the Archbishops’ List to include suffragan bishops.

Rule 3 – Definition of “registrar” to include deputy etc

14. This amendment makes changes to rule 106 which deals with how the rules are interpreted.
15. Paragraph (2) of the amending rule makes the current wording in rule 106 become a new paragraph (1).
16. Paragraph (3) provides that the definition of provincial registrar in the rules is expanded to include a person who has been appointed to act as the deputy provincial registrar under section 29(1) of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 and a person who has been appointed by the registrar of the other province to perform the duties of provincial registrar for a limited period of time under section 29(5).
17. Paragraph (4) makes the same changes as paragraph (3) by expanding the definition of registrar to include a deputy diocesan registrar appointed under section 31(1) of the 2018 Measure and a person who has been appointed by the registrar of the province to perform the duties of a diocesan registrar for a limited period of time under section 31(5).
18. Paragraph (5) tidies up the rules by removing the reference to “area” bishop from the interpretation section on the basis that it is unnecessary and unhelpful to make separate provision for area bishops when they are covered by use of the term “suffragan” that precedes it.
19. Paragraph (6) creates a new paragraph (2) to rule 106 to provide that a deputy registrar is entitled to exercise a function under the 2005 Rules even if the deputy is not authorised to do so under the instrument of appointment. This is to allow those who have already been appointed a deputy registrar to access the List where their instrument of appointment does not provide for it.

Legal Office
Church House, Westminster
January 2024

Proposed amendments

74 Access to the list

(1) There shall be a single list compiled and maintained jointly by the archbishops for the purposes specified in section 38(1) of the Measure, and the list shall be in the custody of the Archbishop of Canterbury.

(2) A copy of the list shall be in the custody of the Archbishop of York.

(3) Subject to the provisions of section 38(2) and section 38(3) of the Measure, the list shall not be open to public inspection but shall be made available to the President, diocesan **or suffragan** bishops of the Church of England, registrars and the Designated Officer.

106 Interpretation

(1) In these rules, unless the context otherwise requires—

[...]

“bishop” includes the suffragan, ~~area~~ or assistant bishop, as the case may be, where—

(a) disciplinary functions have been delegated in a diocese under an instrument made under section 13 or 14 of the Dioceses, Pastoral and Mission Measure 2007 or in an instrument having effect as if made under either of those sections by virtue of paragraph 3 of Schedule 6 to that Measure; or

(b) such functions are discharged under a scheme made under section 11 of the Dioceses Measure 1978 which continues in force under paragraph 5 of that Schedule.

[...]

“provincial registrar” means the provincial registrar of the relevant province, or in the case of an allegation of misconduct against an archbishop, the provincial registrar of the other province **or, in the case of either of the provincial registrars, a person appointed under section 29(1) or (5) of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018;**

“registrar” means the diocesan registrar **or a person appointed under section 31(1) or (5) of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018,** or in the case of an allegation of misconduct made against a bishop the provincial registrar, or in the case of an allegation of misconduct made against an archbishop the provincial registrar of the other province;

[...]

(2) A person appointed under section 29(1) or 31(1) of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 is entitled to exercise a function under these Rules of a provincial registrar or diocesan registrar is authorised to exercise that function under the instrument of appointment.