STATUTORY INSTRUMENTS

2016 No. 848

ECCLESIASTICAL LAW, ENGLAND

The Clergy Discipline (Amendment) Rules 2016

Made (Approved by the General Synod) - - 8th July 2016

Laid before Parliament 25th August 2016

Coming into force in accordance with rule 20

The Rule Committee, in exercise of powers conferred by section 26(1) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991(**1**), makes the following Rules to amend the Clergy Discipline Rules 2005(**2**):

Amendments to the Clergy Discipline Rules

1. The Clergy Discipline Rules 2005 are amended as follows.

Complaints of sexual misconduct towards a vulnerable adult

2.—(1) After rule 14 there is inserted the following new rule—

"**Complaints of sexual misconduct towards a vulnerable adult**

14A.—(1) Where it appears to the bishop upon receipt of the registrar's written report that—

(a) the misconduct in question—

(i) is conduct of a sexual nature towards an adult, and

(ii) did not occur within the period of one year ending with the date on which proceedings were instituted, or in the case of a series of acts or omissions the last instance did not occur within that period, and

(b) at the time of the alleged misconduct the adult may have been a vulnerable adult, and

(c) the President has not given written permission for the proceedings to be instituted after the expiry of the period of one year,

the bishop shall refer the matter to the President for consideration as to whether the adult was a vulnerable adult at the time of the alleged misconduct,

(**1**) 1991 No. 1. Relevant amendments were made by section 45 of the Clergy Discipline Measure 2003 (2003 No. 3).
(**2**) S.I. 2005 No. 2022, as amended by the Clergy Discipline (Amendment) Rules S.I. 2013 No. 1917.

provided that the bishop may dismiss the complaint under section 11(3) of the Measure if satisfied that the complainant did not have a proper interest to make the complaint at the date the proceedings were instituted, or that there is not sufficient substance in the complaint to justify proceeding with it under the Measure.

(2) Upon referring the matter to the President the bishop shall—

(a) send or deliver to the President, the complainant and the respondent a copy of the registrar's written report,

(b) notify the complainant and the respondent in writing that the matter has been referred to the President, and

(c) consider extending time under rule 18.

(3) Where the matter is referred to the President, the President shall invite the complainant to make written representations within 21 days as to—

(a) whether the adult in question was a vulnerable adult at the time of the alleged misconduct, and

(b) whether there was good reason why the complainant did not institute proceedings at an earlier date.

(4) A copy of any representations received from the complainant shall be sent or delivered by the President to the respondent, and the respondent shall be invited by the President to make written representations in reply within 21 days of receipt.

(5) Having considered any representations from the parties, the President shall determine in writing the issue of vulnerability for the purposes only of section 9(3) of the Measure, and copies of the determination shall be sent or delivered to the bishop, the diocesan registrar, the complainant and the respondent.

(6) Where the President determines that the adult was a vulnerable adult at the time of the alleged misconduct the complaint shall proceed in accordance with the Measure.

(7) Where the President determines that the adult was not a vulnerable adult at the time of the alleged misconduct the President may nonetheless give permission under section 9 of the Measure for the proceedings to continue where the President considers there was good reason why the complainant did not institute proceedings at an earlier date.

(8) Where the President determines that the adult was not a vulnerable adult at the time of the alleged misconduct and that there was no good reason why the complainant did not institute proceedings at an earlier date, the complaint shall stand dismissed.".

(2) In rule 106 (interpretation) at the appropriate place there is inserted—

";

"vulnerable adult" has the same meaning as in section 6(2) of the Safeguarding and Clergy Discipline Measure 2016".

President's review of a dismissal

3. Rule 16 is amended by substituting for sub-rule (4) the following sub-rule—

"(4) Within 28 days of receiving the complainant's request the President shall notify the complainant, the respondent and the bishop in writing as to whether the President is—

(a) upholding the dismissal, or

(b) reversing it and directing the bishop to deal with the complaint in accordance with section 12 of the Measure, or

(c) remitting the complaint to the bishop and directing the bishop to reconsider the dismissal.".

No further action: President's decision

4. In rule 22 for all the words after "plainly wrong the President may" there is substituted the following—

"—

(a) direct the bishop to pursue such of the courses specified in section 12(1)(b) to (e) as the President considers appropriate, or

(b) remit the complaint to the bishop, and direct the bishop to reconsider the determination that there is to be no further action.".

Respondent's answer

5.—(1) Rule 17 is amended as follows.

(2) In sub-rule (1) the words "under section 11(3) of the Measure" are omitted.

(3) In sub-paragraph (b) of sub-rule (1) for the words "rule 15(1)" there are substituted the words "rules 14A(2) or 15(1)".

(4) In sub-paragraph (c) of sub-rule (2) the words "subject to sub-rule (5)," are omitted.

(5) For sub-rule (5) there is substituted the following sub-rule—

"(5) The bishop may extend time under rule 17(1)(d) for the respondent to submit an answer and any written evidence in support.

(b) Where further time under rule 17(1)(d) is granted the bishop shall consider whether to extend time under rule 18.".

Suspension

6. The title to rule 61 is amended to "**Suspension of a priest or deacon following arrest**".

7. After rule 61B the following new rules are inserted—

"**Suspension of a priest or deacon under section 36(1)(e) of the Measure**

61C.—(1) Where the bishop is satisfied, on the basis of information provided by a local authority or the police, that a priest or deacon holding any preferment in the diocese presents a significant risk of harm, the bishop may suspend the priest or deacon from exercising or performing without the leave of the bishop any right or duty of or incidental to the office of priest or deacon, as the case may be.

(2) Before serving a notice under section 36(1)(e) of the Measure, or revoking a notice served under section 36(1)(e), the bishop must consult the diocesan safeguarding advisor and such other persons as the bishop considers appropriate.

(3) A notice suspending a priest or deacon under sub-rule (1) shall be in form 16a in the Schedule or in a form which is substantially to the like effect, and may specify any rights or duties which by leave of the bishop are not suspended.

Suspension of a priest or deacon under section 36A of the Measure

61D.—(1) Where an application is made to the President for permission under section 9 of the Measure for proceedings to be instituted against a priest or deacon holding any preferment in a diocese, the bishop may suspend the priest or deacon from exercising or performing without the leave of the bishop any right or duty of or incidental to the priest's or deacon's office, provided the bishop is satisfied that the suspension is necessary in all the circumstances of the case.

(2) Before exercising the power of suspension, the bishop must refer the matter to the registrar for written advice on—

(a) whether the complainant has a proper interest in instituting the proceedings,

(b) whether there is sufficient substance in the complaint to justify proceeding with it in accordance with the Measure, and

(c) whether the suspension is necessary in all the circumstances of the case,

and the bishop must have regard to the registrar's report in deciding whether to exercise the power of suspension.

(3) A notice suspending a priest or deacon under sub-rule (1) shall be in form 17a in the Schedule or in a form which is substantially to the like effect, and may specify any rights or duties which by leave of the bishop are not suspended.

(4) A copy of the registrar's report shall be served by the bishop on the priest or deacon at the same time as the notice of suspension.".

8.—(1) Rule 62 is amended as follows.

(2) The text of rule 62 becomes sub-rule (1).

(3) In sub-paragraph (1)(e) for the words "the date when the suspension takes effect" there are substituted the words "receipt of the notice of suspension".

(4) After sub-rule (1) the following new sub-rules are inserted—

"(2) A notice of suspension given under rule 61C(3) shall be signed by the bishop and shall—

(a) state the date from when the suspension takes effect,

(b) explain that the suspension, unless revoked by the bishop, will continue until the expiry of the period of 3 months following the date of service of the notice on the priest or deacon,

(c) explain—

(i) that the bishop may cause a further notice of suspension to be served on the priest or deacon, and that this will continue for the same period as is specified in paragraph (b),

(ii) that a further notice or notices of suspension may thereafter be served on the priest or deacon, and

(iii) that such notice or notices may be in different terms from any previous notice,

(d) state that the effect of the suspension is that the priest or deacon is forbidden to exercise or perform without the leave of the bishop any right or duty of or incidental to the office of priest or deacon, as the case may be, and

(e) explain that within a period of 14 days from receipt of the notice of suspension the priest or deacon may appeal against the suspension to the President, who may within 28 days following the lodging of the appeal either confirm or revoke the suspension.

(3) A notice of suspension given under rule 61D(3) shall be signed by the bishop and shall—

(a) state the date from when the suspension takes effect,

(b) explain that the suspension, unless revoked by the bishop, will—

(i) continue until the expiry of the period of 3 months following the date of service of the notice on the priest or deacon, or,

(ii) end if the application for permission to institute proceedings out of time be refused before the expiry of that period, or

(iii) end, if permission to institute proceedings be granted before the expiry of that period, upon—

(aa) the expiry of the period of 14 days beginning with the day on which disciplinary proceedings are instituted, or

(bb) the expiry of the period within which permission was given for proceedings to be instituted if the proceedings are not instituted within that period, or

(cc) service of any notice of suspension under section 36(1) of the Measure,

as the case may be,

(c) explain that if the application for permission is not determined before the end of the expiry of the period of 3 months following the date of service of the notice of suspension—

(i) the bishop may cause a further notice of suspension to be served on the priest or deacon, and that this will continue for the same period as is specified in paragraph (b)(i),

(ii) that a further notice or notices of suspension may thereafter be served on the priest or deacon, and

(iii) that such notice or notices may be in different terms from any previous notice,

(d) state that the effect of the suspension is that the priest or deacon is forbidden to exercise or perform without the leave of the bishop any right or duty of or incidental to the office of priest or deacon, as the case may be, and

(e) explain that within a period of 14 days from receipt of the notice of suspension the priest or deacon may appeal against the suspension to the President, who may within 28 days following the lodging of the appeal either confirm or revoke the suspension.".

9.—(1) Rule 63 is amended as follows.

(2) In sub-rule (1) for the words from "A copy of the notice" to "or delivered by the bishop" there are substituted the words "Where a priest or deacon is suspended under rule 60, 61, 61A, 61B or 61D the bishop shall give written notification of the suspension".

(3) In sub-rule (2) for the words from ", a copy of the notice" to "delivered by the bishop" there are substituted the words "upon the suspension of a priest or deacon under rule 60, 61, 61A, 61B or 61D, the bishop may give written notification of the suspension".

(4) After sub-rule 2 there are inserted the following new sub-rules—

"(3) Where a priest or deacon is suspended under rule 61C the bishop shall give written notification of the suspension to each person referred to in sub-rule (1) and sub-rule (2)(a), (b), (c) and (d) above.

(4) Where a priest or deacon is suspended under rule 61C the bishop may give written notification of the suspension to any other person whom the bishop considers should be notified of the suspension.".