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STATUTORY INSTRUMENTS

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**1994 No. 703**

**Incumbents (Vacation of Benefices) Rules 1994**

**PART III**

**ENQUIRIES UNDER PART II OF THE MEASURE**

**Application**

**14.** This Part applies to enquiries under Part II of the Measure and references to an enquiry shall be construed accordingly.

**Presentation of case.**

**15.—(1)** Subject to paragraph (2) below, the archdeacon in whose archdeaconry the benefice of the incumbent concerned is shall be responsible for presenting the case at the enquiry.

(2) Where—

- (a) the archdeaconry mentioned in paragraph (1) above is vacant; or
- (b) the incumbent concerned is the archdeacon mentioned in paragraph (1) above; or
- (c) the archdeacon informs the bishop concerned that he is of opinion that it would not be right or expedient for him to act in the case,

the bishop shall appoint some other clerk in Holy Orders holding office in the diocese to present the case at the enquiry and references in this Part to the archdeacon responsible for presenting the case shall be construed accordingly.

(3) A clerk in Holy Orders appointed under paragraph (2) above to present the case at an enquiry shall be deemed to be a party to the proceedings for the purposes of these Rules.

**Supply of material to parties and tribunal.**

**16.—(1)** As soon as possible after the constitution of the tribunal for an enquiry, the secretary shall send to all parties and to the bishop concerned a notice setting out the composition of the tribunal and specifying the date on which it was constituted and its address for the purpose of serving documents.

(2) The secretary shall ensure that the tribunal is supplied with a copy of the bishop's instructions to the diocesan secretary under section 6(1) of the Measure relating to the institution of the enquiry.

**Statement by bishop**

**17.—(1)** The bishop concerned shall—

- (a) within twenty-eight days after the constitution of the tribunal, send to the tribunal a written statement explaining the circumstances which led him to give instructions for the institution of the enquiry; and
- (b) send a copy of it to the incumbent concerned and to the archdeacon responsible for presenting the case.

(2) The incumbent concerned may within twenty-eight days after such copy is supplied to him, send comments thereon in writing to the tribunal and, if he does so, shall send a copy of his comments to the archdeacon responsible for presenting the case.

### **Directions**

**18.**—(1) Rules 5 and 6 shall apply in relation to an enquiry as they apply in relation to an enquiry under Part I of the Measure.

(2) Where paragraph (2) of rule 15 applies, the chairman of the tribunal shall give directions under rule 5 as applied by this rule as to the time within which the steps mentioned in that paragraph are to be taken.

### **Notice of hearing**

**19.**—(1) Not less than fourteen days' notice of the date, time and place at which any hearing of the tribunal is to be held shall be given to the bishop, the incumbent concerned, the secretary of the parochial church council of any parish belonging to the benefice of which the incumbent concerned is the incumbent and the archdeacon responsible for presenting the case.

(2) A notice under this rule shall identify the parties to the proceedings and state who may attend the hearing to which the notice relates.

### **Appearance at hearing**

**20.**—(1) The parties to the proceedings on the enquiry shall be entitled to appear before, and to be heard by, the tribunal and to give oral evidence in those proceedings.

(2) The tribunal may invite any person who may in its opinion be able to assist the parties or the tribunal to address it or give oral evidence or both.

(3) The tribunal may require oral evidence by any person in such proceedings to be given on oath and for that purpose the chairman of the tribunal may administer oaths.

### **Evidence and medical examinations**

**21.** Rules 9, 11 and 12 shall apply in relation to an enquiry as they apply in relation to an enquiry under Part I of the Measure.

### **Hearing normally to be private.**

**22.**—(1) Subject to paragraph (2) below, the proceedings at any hearing of the tribunal shall be held in private.

(2) If the tribunal so directs in the interests of justice or for any other good reason the proceedings at any hearing of the tribunal shall be held in public.

### **Report**

**23.** In addition to the matters mentioned in section 9(3) and (4) of the Measure, the tribunal shall include in its report to the bishop a statement —

- (a) setting out its decisions as to the facts and other issues involved and explaining its reasons for reaching those decisions; and
- (b) indicating the number of votes cast for and against each decision.