



Ecclesiastical Jurisdiction Measure 1963

1963 No. 1

PART I

THE ECCLESIASTICAL JUDICIAL SYSTEM

The Judges of the Courts constituted by this Measure

2 Judge of consistory court.

(1) Subject to the following provisions of this Measure, the consistory court of a diocese shall be presided over by a single judge who shall be styled the chancellor of the diocese or, in the case of the diocese of Canterbury, the commissary general, and appointed by the bishop thereof by letters patent.

^{F1}[(1A) Before appointing a person to be chancellor of a diocese the bishop shall consult the Lord Chancellor and the Dean of the Arches and Auditor.]

^{F2}(2) A person appointed to be chancellor of a diocese shall be a person —
(a) who holds or has held high judicial office or the office of Circuit judge, or
(b) has the qualifications required for a person to be appointed a Circuit judge, and, before appointing a layman, the bishop shall satisfy himself that that person is a communicant.]

^{F3}(3)

(4) Subject to the provisions of [^{F4}subsections (3) and (4A) [^{F5}to (4C)] of this section], the appointment of a person to be chancellor of a diocese shall be [^{F6}for the period beginning with the date of the appointment and ending with the date on which he attains the age [^{F7} of seventy years]], but he—

- (a) may resign his office by instrument in writing under his hand addressed to, and served on, the bishop of the diocese;
- (b) may be removed by that bishop if the Upper House of the Convocation of the relevant province resolves that he is incapable of acting or unfit to act.

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- [^{F8}(c) may continue to act as chancellor for the purpose of any proceedings or cause of faculty in the consistory court of the diocese during the course of which he attains the age [^{F7} of seventy years] as if the date of the conclusion in that court of those proceedings or that cause, as the case may be, were the date on which he attains that age.]
- [^{F9}(4A) Where the bishop of a diocese considers it desirable in the interests of the diocese to retain the chancellor of the diocese in office after the date on which he would otherwise retire in accordance with subsection (4) above, he may authorise the continuance in office of the chancellor after that date for a period of up to 2 years.
- (4B) The bishop may authorise the further continuance in office of a chancellor for periods of up to 1 year at a time.
- (4C) The period during which a chancellor remains in office shall not be continued under subsection (4A) or (4B) above beyond the date at which the chancellor attains the age of 75 years.
- (4D) Before authorising any period of continuance in office of a chancellor under subsection (4A) or (4B), the bishop shall consult the Dean of the Arches and Auditor.]
- (5) The chancellor of a diocese shall, before he enters on the execution of his office,—
- (a) take ^{F10} . . . , either before the bishop of the diocese in the presence of the diocesan registrar, or in open court in the presence of that registrar, the oaths set out in Part I of the First Schedule to this Measure; . . . ^{F11}
 - (b) ^{F12}
- and the diocesan registrar shall record the taking . . . of the said oaths . . .

Annotations:

Amendments (Textual)

- F1** S. 2(1A) inserted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991](#) (No. 1, SIF 21:8) , s. 8(1) , **Sch. 4 para. 2(a)** (with s. 31(6)); Instrument dated 16.2.1993 made by the [Archbishops of Canterbury and York](#)
- F2** S. 2(2) substituted (19.5.2014) by [Church of England \(Miscellaneous Provisions\) Measure 2014](#) (No. 1) , **ss. 6(2)**, 21(2) (with s. 6(4)); S.I. 2014/1369, art. 2
- F3** S. 2(3) repealed (1.6.1992) by [Church of England \(Miscellaneous Provisions\) Measure 1992](#) (No. 1) , s. 17(2) , **Sch. 4 Pt. II** ; Instrument dated 27.5.1992 made by the [Archbishops of Canterbury and York](#) .
- F4** Words in s. 2(4) substituted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991](#) (No. 1, SIF 21:8) , s. 8(1) , **Sch. 4 para. 2(c)(i)** (with s. 31(6)); Instrument dated 16.2.1993 made by the [Archbishops of Canterbury and York](#)
- F5** Words in s. 2(4) inserted (1.4.2015) by [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015](#) (No. 1) , **ss. 9(2)**, 11(2) (with s. 5(2)); S.I. 2015/593, art. 2 (with Sch. para. 56)
- F6** Words substituted by [Ecclesiastical Judges and Legal Offices Measure 1976](#) (No. 2) , **s. 1(1)(3)** except in relation to a person who holds the office of chancellor of a diocese, or, in the case of the diocese of Canterbury, commissary general on 25.4.1976
- F7** Words in s. 2(4) substituted (1.9.2010) by [Church of England \(Miscellaneous Provisions\) Measure 2010](#) (No. 1) , **ss. 5(1)(b)**, 13(2) (with s. 5(2)); S.I. 2010/2, art. 3, Sch. 2
- F8** S. 2(4)(c) added by [Ecclesiastical Judges and Legal Officers Measure 1976](#) (No. 2) , **s. 1(1)**
- F9** S. 2(4A)-(4D) substituted for s. 2(4A) (1.4.2015) by [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015](#) (No. 1) , **ss. 9(1)**, 11(2); S.I. 2015/593, art. 2 (with Sch. para. 56)
- F10** Words in s. 2(5) repealed (1.9.1995) by [1995 No. 2](#) , **s. 9(a)** ; Instrument dated 26.7.1995 made by [Archbishops of Canterbury and York](#)

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- F11** Word repealed by Church of England (Worship and Doctrine) Measure 1974 (No. 3) , Sch. 2
F12 S. 2(5)(b) repealed by Church of England (Worship and Doctrine) Measure 1974 (No. 3) , Sch. 2

[^{F13}2A Number of chancellorships to be held by one person may be limited.

- (1) Regulations made by the House of Bishops of the General Synod may make provision with respect to the maximum number of chancellorships [^{F14} or deputy chancellorships] of dioceses which any one person may hold.
- (2) Nothing in any regulation made under this section shall be taken as prohibiting any person who at the date on which the regulation comes into force holds more than the maximum number of chancellorships [^{F14} or deputy chancellorships] prescribed by the regulation from continuing to hold such offices.
- (3) Regulations made under this section shall be laid before the General Synod and shall not come into operation until they have been approved by the General Synod.
- (4) The ^{M1} Statutory Instruments Act 1946 shall apply to any regulations approved under subsection (3) of this section as if they were a statutory instrument and were made when so approved, and as if this Measure were an Act providing that any such regulations should be subject to annulment in pursuance of a resolution of either House of Parliament.]

Annotations:

Amendments (Textual)

- F13** S. 2A inserted by Ecclesiastical Judges and Legal officers Measure 1976 (No. 2), s. 2
F14 Words in s. 2A(1)(2) inserted (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), ss. 7(3), 16(2); S.I. 2006/2, Instrument made by Archbishops; S.I. 2006/2, Instrument made by Archbishops

Marginal Citations

- M1** 1946 c. 36.

3 Judges of the Arches and Chancery Courts.

- (1) The judges of the Arches Court of Canterbury and the Chancery Court of York respectively shall be [^{F15}as set out in subsection (2) of this section], but proceedings which, by virtue of the following provisions of this Measure, are cognisable by either of those Courts shall be heard and disposed of by such of the judges thereof as may be determined in accordance with those provisions.
- (2) Of the judges of each of the said Courts—
 - (a) one, who shall be a judge of both Courts (and, in respect of his jurisdiction in the province of Canterbury shall be styled Dean of the Arches and, in respect of his jurisdiction in the province of York, shall be styled Auditor, and is hereinafter referred to in this Measure as the Dean of the Arches and Auditor), shall be appointed by the archbishops of Canterbury and York jointly with the approval of Her Majesty signified by warrant under the sign manual;
 - [^{F16}(b) for the purposes of proceedings on an appeal under section 20 of the Clergy Discipline Measure 2003, four shall be appointed in accordance with subsections (2) and (3) of that section;]

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^{F17}[(d) the others shall be all the diocesan chancellors appointed under section 2 of this Measure (in whichever province), except the chancellor of the diocese in Europe;]

^{F18}(3) A person appointed to be Dean of the Arches and Auditor shall be a person who—

- (a) holds or has held high judicial office, or
- (b) has the qualifications required for a person to be appointed a Lord Justice of Appeal,

and, before appointing a layman, the Archbishops of Canterbury and York shall satisfy themselves that that person is a communicant.]

^{F19}(4)

^{F20}(5) The appointment of the Dean of the Arches and Auditor shall be for a period beginning with the date of the appointment and ending with the date on which he attains the age of seventy-five years, but—

- (a) he may resign his office by instrument in writing under his hand addressed to, and served on, the Archbishops of Canterbury and York,
- (b) he may be removed by the Archbishops of Canterbury and York jointly if the Upper Houses of the Convocations of the provinces of Canterbury and York each resolve that he is incapable of acting or unfit to act, and
- (c) he may continue to act as a judge for the purpose of any proceedings in either Court during the course of which he attains the age of seventy-five years as if the date of the conclusion of the proceedings were the date on which he attains that age.]

(6) ^{F21}The Dean of the Arches and Auditor and every chancellor of a diocese shall, before he enters on the execution of his office as a judge of the said Courts],—

- (a) take ^{F22} . . . ,—
 - (i) before the archbishop of Canterbury in the presence of the registrar of the province of Canterbury and before the archbishop of York in the presence of the registrar of the province of York; or
 - (ii) in open court in both of those provinces in the presence of the registrar of the province;

the oaths set out in Part I of the First Schedule to this Measure; . . . ^{F23}

- (b) ^{F24}

(7) ^{F25}A person appointed under paragraph ^{F26}(b) of subsection (2) of this section] to hold the office of judge of either of the said Courts shall, before he enters on the execution of his office,—

- (a) take . . . the said oaths either before the archbishop of the relevant province and in the presence of the registrar of that province or in open court in the presence of that registrar; . . .
- (b) . . .

(8) A provincial registrar shall record the taking . . . ^{F27} . . . , of an oath . . . in his presence in pursuance of either of the two last foregoing subsections.

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Annotations:

Amendments (Textual)

- F15** Words in s. 3(1) substituted (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 8(1), **Sch. 4 para. 3(a)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F16** S. 3(2)(b) substituted for s. 3(2)(b)(c) (1.2.2014) by Clergy Discipline (Amendment) Measure 2013 (No. 2), **ss. 9(3)**, 10(2); S.I. 2014/1, art. 2
- F17** S. 3(2)(d) inserted (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 8(1), **Sch. 4 para. 3(b)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F18** S. 3(3) substituted (19.5.2014) by Church of England (Miscellaneous Provisions) Measure 2014 (No. 1), **ss. 6(3)**, 21(2) (with s. 6(4)); S.I. 2014/1369, art. 2
- F19** S. 3(4) repealed (1.2.2014) by Clergy Discipline (Amendment) Measure 2013 (No. 2), **ss. 9(4)**, 10(2); S.I. 2014/1, art. 2
- F20** S. 3(5) substituted (1.2.2014) by Clergy Discipline (Amendment) Measure 2013 (No. 2), **ss. 9(5)**, 10(2); S.I. 2014/1, art. 2
- F21** Words in s. 3(6) substituted (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 8(1), **Sch. 4 para. 3(e)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F22** Words in s. 3(6)(7) repealed (1.9.1995) by 1995 No. 2, **s. 9(b)(i)**; Instrument dated 26.7.1995 made by Archbishops of Canterbury and York
- F23** Words repealed by Church of England (Worship and Doctrine) Measure 1974 (No. 3), **Sch. 2**
- F24** S. 3(6)(b)(7)(b) repealed by Church of England (Worship and Doctrine) Measure 1974 (No. 3), **Sch. 2**
- F25** Words in s. 3(7) substituted (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 8(1), **Sch. 4 para. 3(f)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F26** Word in s. 3(7) substituted (1.2.2014) by Clergy Discipline (Amendment) Measure 2013 (No. 2), **ss. 9(6)**, 10(2); S.I. 2014/1, art. 2
- F27** Words in 3(8) repealed (1.9.1995) by 1995 No. 2, **s. 9(b)(ii)**; Instrument dated 26.7.1995 made by Archbishops of Canterbury and York

4 Appointment of deputy judges.

- (1) [^{F28}Where the Dean of the Arches and Auditor or any chancellor is for any reason unable to act as such, or the office of the Dean or any chancellor is vacant], the archbishops of Canterbury and York in the former case, and the bishop of the diocese concerned in the latter, may appoint a fit and proper person to act as deputy Dean of the Arches and Auditor or deputy chancellor of such diocese as the case may be during [^{F28}the period of inability or vacancy], and every person so appointed shall have all the powers and perform all the duties of the [^{F28}office in respect of which he is appointed to act as deputy].

^{F29}[(1A) The Dean of the Arches and Auditor ^{F30}... may, with the consent of the Archbishops of Canterbury and York ... appoint a fit and proper person to act as deputy Dean of the Arches and Auditor ... for such period not exceeding twelve months or for such purpose as may be specified in the instrument of appointment, and during that period or for that purpose every person so appointed shall have all the powers and perform all the duties of the office [^{F31}of Dean of the Arches and Auditor]].

[^{F32}(1B) Any chancellor may, with the consent of the bishop of the diocese, appoint, in writing, a fit and proper person to act as deputy chancellor of the diocese and any person

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so appointed shall have all the powers and perform all the duties of the office of chancellor.

- (1C) The appointment of a deputy chancellor appointed under subsection (1B) of this section shall continue so long as the chancellor who appointed the deputy chancellor continues in office and, thereafter, for the period of three months beginning with the date on which the chancellor ceases to hold office or until the deputy chancellor attains the age at which the chancellor would be required to vacate the office of chancellor under section 2(4) of this Measure, whichever is sooner, but a deputy chancellor—
- (a) may resign the office of deputy chancellor by notice in writing addressed to the chancellor,
 - (b) may be removed by the chancellor, after consultation with the bishop, if the chancellor considers that the deputy is incapable of acting or unfit to act, and
 - (c) may continue to act as chancellor for the purpose of any proceedings or cause of faculty in the consistory court of the diocese during the course of which the deputy chancellor attains the said age or, as the case may be, the three months period referred to above expires, as if the date of the conclusion in the court of those proceedings or that cause, as the case may be, were the date on which that age is attained or, as the case may be, that period has expired.]
- (2) Every deputy judge appointed to act pursuant to the provisions of the foregoing [F33 subsections] shall be qualified as hereinbefore provided with respect to the person whose functions he is appointed to perform and, before he enters on the execution of his office, such deputy shall take and subscribe such oaths . . . F34 as are required to be taken, . . . and subscribed by the Dean of the Arches and Auditor or by a chancellor of a diocese, as the case may be, under the preceding provisions of this Measure in manner thereby appointed, and such oaths . . . shall be recorded in the like manner.

Annotations:

Amendments (Textual)

- F28** Words in s. 4(1) expressed to be inserted (1.3.1993) for the words from the beginning to "any chancellor" by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), [Sch. 4 para. 4\(a\)\(i\)](#) (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- Words in s. 4(1) substituted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), [Sch. 4 para. 4\(a\)\(ii\)](#); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- Words in s. 4(1) substituted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), [Sch. 4 para. 4\(a\)\(iii\)](#); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F29** S. 4(1A) inserted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), [Sch. 4 para. 4\(b\)](#) (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F30** Words in s. 4(1A) omitted (1.10.2006) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), [ss. 7\(4\)](#), 16(2); S.I. 2006/2, Instrument made by Archbishops
- F31** Words in s. 4(1A) substituted (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), [ss. 7\(4\)](#), 16(2); S.I. 2006/2, Instrument made by Archbishops
- F32** S. 4(1B)(1C) inserted (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), [ss. 7\(5\)](#), 16(2); S.I. 2006/2, Instrument made by Archbishops
- F33** Word in s. 4(2) substituted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), [Sch. 4 para. 4\(c\)](#); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York

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F34 Words repealed by [Church of England \(Worship and Doctrine\) Measure 1974 \(No. 3\), Sch. 2](#)

5 Judges of the Court of Ecclesiastical Causes Reserved.

The Court of Ecclesiastical Causes Reserved shall be constituted of five judges appointed by Her Majesty, and of them two shall be persons who hold, or have held, high judicial office and who make a declaration that they are communicants and three shall be persons who are, or have been, diocesan bishops.

Changes to legislation:

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