Ecclesiastical Jurisdiction and Care of Churches Measure 2018

2018 No. 3

PART 1

THE ECCLESIASTICAL COURTS

The consistory courts

1 The consistory courts: continuation

(1) For each diocese there is to continue to be a court of the bishop of the diocese.

(2) The court is to continue to be known as the consistory court of the diocese or, in the case of the diocese of Canterbury, the commissary court of that diocese.

(3) Accordingly, a reference in this Measure to the consistory court of a diocese is, in the case of the diocese of Canterbury, to be read as a reference to the commissary court of that diocese.

Commencement Information

I1 S. 1 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

2 Judge: appointment

(1) The consistory court of a diocese is to be presided over by a single judge, appointed by the bishop of the diocese by letters patent **[**[F1]on the recommendation of the Dean of the Arches and Auditor**]**.

(2) The judge is to continue to be known as the chancellor of the diocese or, in the case of the diocese of Canterbury, the commissary general.

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

(3) Accordingly, a reference in this Measure to the chancellor of a diocese is, in the case of the diocese of Canterbury, to be read as a reference to the commissary general.

(4) A person may be appointed as chancellor of a diocese only if the person—
  (a) holds or has held high judicial office, or
  (b) holds or has held the office of circuit judge or has the qualifications required for holding that office.

(5) A lay person may be appointed as chancellor of a diocese only if the bishop is satisfied that the person is a communicant.

[[F2](6) Before making a recommendation under subsection (1), the Dean of the Arches and Auditor must consult the Lord Chancellor as well as the bishop.**]**

Textual Amendments

F1 Words in s. 2(1) inserted (17.5.2024) by Church of England (Miscellaneous Provisions) Measure 2024 (No. 1), **ss. 9(1)**, 22(4); S.I. 2024/631, art. 2

F2 S. 2(6) substituted (17.5.2024) by Church of England (Miscellaneous Provisions) Measure 2024 (No. 1), **ss. 9(2)**, 22(4); S.I. 2024/631, art. 2

Commencement Information

I2 S. 2 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

3 Judge: term of office

(1) The term of a person's appointment as chancellor of a diocese—
  (a) begins with the date of the appointment, and
  (b) subject to the following provisions of this section, ends with the day on which the person reaches the age of 70.

(2) The chancellor of a diocese may resign the office by instrument in writing signed by him or her and addressed to, and served on, the bishop of the diocese.

(3) The bishop of a diocese may remove the chancellor of the diocese from office if the Upper House of the Convocation of the province concerned resolves that he or she is incapable of acting or unfit to act; and such a resolution must be filed in the registry of the province concerned.

(4) Where, during the course of proceedings in the consistory court, the chancellor of the diocese reaches the age of 70, he or she may continue to act as chancellor for the purposes of the proceedings as if the day on which the proceedings concluded in that court were the day on which he or she reached that age.

(5) Where the bishop of a diocese considers that it would be desirable in the interests of the diocese to retain the chancellor in office after the date on which he or she would otherwise retire under subsection (1) or (4), the bishop may authorise the continuance in office of the chancellor after that date for a period of up to two years.

(6) The bishop of a diocese may authorise the further continuance in office of the chancellor of the diocese for periods of up to one year at a time.

(7) The period during which a person remains in office as chancellor may not be continued under subsection (5) or (6) beyond the date on which the person reaches the age of 75.

(8) Before authorising a period of continuance under subsection (5) or (6), the bishop must consult the Dean of the Arches and Auditor.

(9) Where the chancellor of a diocese is continuing in office under subsection (5) or (6) and, during the course of proceedings in the consistory court, the period of continuance under that subsection expires, he or she may continue to act as chancellor for the purposes of the proceedings as if the day on which the proceedings concluded in that court were the day on which the period of continuance expired.

(10) The references in subsections (1) and (4) to reaching the age of 70 apply only in the case of a person appointed as chancellor on or after 31 March 1995; in the case of a person appointed as chancellor before that date, the references are to be read as references to reaching the age at which a circuit judge appointed on the day on which the person was appointed as chancellor would be obliged to vacate office.

Commencement Information
I3 S. 3 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

4 Deputy judge: appointment and term of office

(1) The chancellor of a diocese, with the consent of the bishop of the diocese, may in writing appoint a fit and proper person to act as deputy chancellor of the diocese.

(2) Where the chancellor of a diocese is for any reason unable to act, the bishop of the diocese may in writing appoint a fit and proper person to act as deputy chancellor of the diocese during the period in which the chancellor is unable to act.

(3) Where the chancellor of a diocese notifies the bishop of the diocese that it would be inappropriate for him or her or for a deputy chancellor appointed under subsection (1) to act for the purposes of the proceedings to which the notification relates, the bishop of the diocese may in writing appoint a fit and proper person to act as deputy chancellor for those purposes.

(4) Where the office of chancellor of a diocese is vacant, the bishop of the diocese may in writing appoint a fit and proper person to act as deputy chancellor of the diocese during the vacancy.

(5) A deputy chancellor has the same powers and duties as the chancellor for whom he or she is deputy.

(6) The qualifications for an appointment under this section are the same as those for the appointment of a chancellor under section 2; accordingly, subsections (4) and (5) of that section apply to an appointment under this section as they apply to an appointment under that section.

(7) The appointment of a person as a deputy under subsection (1) continues—

(a) for so long as the chancellor who made the appointment continues in office and then for a period of three months beginning with the date on which the chancellor ceases to hold office, or

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

(b) if before the end of that period the deputy reaches the age at which the chancellor would be required to vacate office under section 3(1), until the day on which the deputy reaches that age.

(8) A deputy chancellor appointed under subsection (1) may resign the office by notice in writing addressed to the chancellor.

(9) The chancellor of a diocese may, after consultation with the bishop of the diocese, remove a deputy chancellor appointed under subsection (1) from office if the chancellor considers that he or she is incapable of acting or unfit to act.

(10) Where, during the course of proceedings in the consistory court in which the deputy chancellor of the diocese is acting as chancellor, the person's appointment as deputy chancellor would (but for this subsection) end under subsection (7), the person may continue to act as chancellor for the purposes of the proceedings as if the day on which the proceedings concluded in that court were the day on which the appointment ends under subsection (7).

Commencement Information
I4 S. 4 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

5 Regulations as to maximum number of offices held

(1) The House of Bishops may by regulations make provision with respect to the maximum number of chancellorships or deputy chancellorships which any one person may hold.

(2) Regulations under subsection (1) may not include provision to prohibit a person who, at the time the provision comes into force, holds more than the specified maximum number of chancellorships or deputy chancellorships from continuing to do so.

(3) Regulations under subsection (1)—
(a) must be laid before the General Synod, and
(b) may not come into force unless they have been approved by the Synod.

Commencement Information
I5 S. 5 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

6 Judge and deputy judge: oaths

(1) The chancellor or deputy chancellor of a diocese must, before entering on the execution of the office, take the following oaths—

"I, ... , do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth, Her Heirs and successors, according to law. So help me God."

"I, ... , do swear that I will, to the uttermost of my understanding, deal uprightly and justly in my office, without respect of favour or reward. So help me God."

(2) The oaths must be taken—
(a) before the bishop of the diocese in the presence of the diocesan registrar, or

(b) in open court in the presence of the diocesan registrar.

(3) The diocesan registrar must record the taking of the oaths and file the record in the diocesan registry.

Commencement Information
I6 S. 6 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

7 Jurisdiction

(1) The consistory court of a diocese has jurisdiction to hear and determine—

(a) proceedings for obtaining a faculty to authorise an act relating to land in the diocese, or to something on, in or otherwise appertaining to land there, for which a faculty is required;

(b) proceedings for an order under section 53(8) (delivery of article to place of safety);

(c) proceedings for obtaining a faculty under section 67 (sale of books in parochial library);

(d) proceedings for an injunction under section 71 or a restoration order under section 72;

(e) proceedings under section 68(7) or (12) of the Mission and Pastoral Measure 2011 (enforcement or interpretation of leases);

(f) proceedings under section 71(9) of that Measure (compensation for loss of burial rights);

(g) proceedings upon a jus patronatus awarded by the bishop of the diocese;

(h) any other proceedings which, immediately before the passing of the Ecclesiastical Jurisdiction Measure 1963 on 31 July 1963, the court had power to determine (except proceedings the jurisdiction for which was expressly abolished by that Measure).

(2) Criminal proceedings may not be brought in the consistory court of a diocese.

(3) "Land" includes messuages, tenements and hereditaments, houses and buildings of any tenure.

Commencement Information
I7 S. 7 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

8 Proceedings

Proceedings in the consistory court of a diocese are to be heard and disposed of by the chancellor of the diocese.

Commencement Information
I8 S. 8 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

The Arches and Chancery Courts

9 The Arches and Chancery Courts: continuation

(1) For each province there is to continue to be a court of the archbishop.

(2) The court for the province of Canterbury is to continue to be known as the Arches Court of Canterbury.

(3) The court for the province of York is to continue to be known as the Chancery Court of York.

Commencement Information

I9 S. 9 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

10 Judges: appointment

(1) The following persons are both the judges of the Arches Court of Canterbury and the judges of the Chancery Court of York—

(a) the judge appointed as mentioned in subsection (2), and

(b) the chancellor of each diocese in each province, other than the chancellor of the diocese in Europe.

(2) The judge referred to in subsection (1)(a) is appointed by the Archbishops of Canterbury and York acting jointly with the approval of Her Majesty signified by warrant under the sign manual.

(3) That judge is to continue to be known as the Dean of the Arches and Auditor, being styled as—

(a) Dean of the Arches, in relation to the jurisdiction in the province of Canterbury, and

(b) Auditor, in relation to the jurisdiction in the province of York.

(4) A person may be appointed as the Dean of the Arches and Auditor only if the person—

(a) holds or has held high judicial office, or

(b) has the qualifications required for appointment as a Lord Justice of Appeal.

(5) A lay person may be appointed as the Dean of the Arches and Auditor only if the Archbishops of Canterbury and York are satisfied that the person is a communicant.

(6) Subsection (1) does not apply in relation to proceedings on an appeal under section 20 of the Clergy Discipline Measure 2003; for provision as to the judges of each Court in proceedings of that kind, see section 3 of the Ecclesiastical Jurisdiction Measure 1963.

Commencement Information

I10 S. 10 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

11 The Dean of the Arches and Auditor: term of office

(1) The term of a person's appointment as the Dean of the Arches and Auditor—

(a) begins with the date of the appointment, and

(b) subject to the following provisions of this section, ends with the day on which the person reaches the age of 75.

(2) The Dean of the Arches and Auditor may resign the office by instrument in writing signed by him or her and addressed to, and served on, the Archbishops of Canterbury and York.

(3) The Archbishops of Canterbury and York acting jointly may remove the Dean of the Arches and Auditor from office if the Upper House of each of the Convocations resolves that he or she is incapable of acting or unfit to act; and such a resolution must be filed in the registry of the province concerned.

(4) Where the Dean of the Arches and Auditor reaches the age of 75 during the course of proceedings in the Arches Court of Canterbury or the Chancery Court of York, he or she may continue to act as a judge for the purposes of those proceedings as if the day on which the proceedings concluded in that Court were the day on which he or she reached that age.

Commencement Information

I11 S. 11 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

12 Deputy Dean of the Arches and Auditor: appointment and term of office

(1) The Dean of the Arches and Auditor 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 12 months, or for such purpose, as is specified in the instrument of appointment.

(2) Where the Dean of the Arches and Auditor is for any reason unable to act or the office of the Dean is vacant, the Archbishops of Canterbury and York acting jointly may in writing appoint a fit and proper person to act as deputy Dean of the Arches and Auditor during the period of inability or the vacancy.

(3) A person appointed as deputy under this section has the same powers and duties as the Dean of the Arches and Auditor; but in the case of an appointment under subsection (1) for a specified purpose, the reference to having those powers and duties is a reference to having them for that purpose only.

(4) The qualifications for an appointment under this section are the same as those for the appointment of the Dean of the Arches and Auditor under section 10; accordingly, subsections (4) and (5) of that section apply to an appointment under this section as they apply to an appointment under that section.

Commencement Information

I12 S. 12 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

13 Judges: oaths

(1) The Dean of the Arches and Auditor and any person appointed as deputy who is not the chancellor of a diocese must, before entering on the execution of the office of judge of the Arches Court of Canterbury or the Chancery Court of York, take the following oaths—

> "I, ... , do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth, Her Heirs and successors, according to law. So help me God."

> "I, ... , do swear that I will, to the uttermost of my understanding, deal uprightly and justly in my office, without respect of favour or reward. So help me God."

(2) The oaths must be taken—

(a) 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

(b) in open court in each province in the presence of the registrar of the province.

(3) The registrar of each province must record the taking of the oaths and file the record in the provincial registry.

Commencement Information

I13 S. 13 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

14 Jurisdiction

(1) The Arches Court of Canterbury and the Chancery Court of York each have jurisdiction to hear and determine an appeal from a judgment, order or decree of the consistory court of a diocese in the province concerned—

(a) in proceedings for obtaining a faculty, or

(b) in proceedings of the kind mentioned in section 7(1)(d) or (h),

unless the appeal to any extent relates to matter involving doctrine, ritual or ceremonial (as to which, see section 18).

(2) The Arches Court of Canterbury has jurisdiction to hear and determine an appeal from a judgment, order or decree of the Vicar-General's court of Canterbury (except as constituted in accordance with the Clergy Discipline Measure 2003).

(3) The Chancery Court of York has jurisdiction to hear and determine an appeal from a judgment, order or decree of the Vicar-General's court of York (except as constituted in accordance with the Clergy Discipline Measure 2003).

(4) An appeal under this section may be brought by any party to the proceedings with the permission—

(a) in a case within subsection (1), of the consistory court or the Dean of the Arches and Auditor, or

(b) in a case within subsection (2) or (3), of the Vicar-General's court or the Dean of the Arches and Auditor.

(5) In proceedings pending in the consistory court of a diocese, the Arches Court of Canterbury or the Chancery Court of York (depending on the province in which the diocese is situated) has jurisdiction, either on its own motion or on the application of a

party to the proceedings, to give directions as to the further conduct of the proceedings, if it considers that—

(a) there has been inordinate delay in the conduct of the proceedings, or

(b) it is otherwise in the interests of justice.

(6) In acting under subsection (5), the Court may give any direction which the chancellor has power to give.

Commencement Information

I14 S. 14 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

[F3 14A Decisions treated as taken by each Court

(1) A decision of the Arches Court of Canterbury or the Chancery Court of York is to be treated by the other Court, and by the lower ecclesiastical courts in the province of the other Court, as if it were a decision which the other Court had itself taken.

(2) The reference to a decision of the Arches Court of Canterbury or the Chancery Court of York is a reference to a decision taken by it in the exercise of—

(a) its jurisdiction under section 14(1), (2) or (3), or

(b) its jurisdiction under section 7 of the Ecclesiastical Jurisdiction Measure 1963 (disciplinary jurisdiction).

(3) "Lower ecclesiastical court", in relation to a province, means—

(a) the Vicar-General's court of the province (including as constituted in accordance with the Clergy Discipline Measure 2003),

(b) the consistory court for a diocese in the province, or

(c) a disciplinary tribunal within the province.**]**

Textual Amendments

F3 S. 14A inserted (1.3.2019) by Church of England (Miscellaneous Provisions) Measure 2018 (No. 7), **ss. 7(1)**, 17(3) (with s. 7(3)); S.I. 2019/67, art. 2(1)(f)

15 Proceedings

(1) Proceedings under this Measure in the Arches Court of Canterbury or the Chancery Court of York are to be heard and disposed of by—

(a) the Dean of the Arches and Auditor, and

(b) two chancellors designated by the Dean for the purposes of the case in question.

(2) The Dean of the Arches and Auditor, sitting alone in either Court, has jurisdiction to make interim orders, including directions under section 14(5) (cases involving inordinate delay etc.).

(3) Proceedings under this Measure in either Court are to be brought and conducted in such manner as rules may specify.

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

Commencement Information
I15 S. 15 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

The Court of Ecclesiastical Causes Reserved

16 The Court of Ecclesiastical Causes Reserved: continuation

For both provinces, there is to continue to be a court called the Court of Ecclesiastical Causes Reserved.

Commencement Information
I16 S. 16 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

17 Judges: appointment

(1) The Court of Ecclesiastical Causes Reserved is constituted of five judges, appointed by Her Majesty.

(2) Two of the five judges must be persons each of whom—
  (a) holds or has held high judicial office, and
  (b) has made a declaration that he or she is a communicant.

(3) Three of the five judges must be persons each of whom is or has been a diocesan bishop.

Commencement Information
I17 S. 17 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

18 Jurisdiction

(1) The Court of Ecclesiastical Causes Reserved has jurisdiction to hear and determine an appeal from a judgment, order or decree of a consistory court—
  (a) in proceedings for obtaining a faculty, or
  (b) in proceedings of the kind mentioned in section 7(1)(d) or (h),

  where the appeal to any extent relates to matter involving doctrine, ritual or ceremonial.

(2) The Court of Ecclesiastical Causes Reserved has jurisdiction to hear and determine all suits of duplex querela.

(3) An appeal under this section may be brought by any party to the proceedings.

(4) For the purpose of determining whether an appeal from a judgment, order or decree of a consistory court is to be brought under section 14(1) or under this section, the chancellor must, on the application of the party wishing to appeal, certify whether the proposed appeal relates to any extent to matter involving doctrine, ritual or ceremonial.

(5) If, in proceedings on an appeal from a judgment, order or decree of a consistory court, the Court of Ecclesiastical Causes Reserved considers that it has heard and determined the appeal in so far as it relates to matter involving doctrine, ritual or ceremonial but that the appeal also relates to other matter—
   (a) it may deal with the other matter if it considers it expedient to do so, but
   (b) otherwise, it must refer the other matter to the Arches Court of Canterbury or the Chancery Court of York, as appropriate, for it to hear and determine.

(6) If, in proceedings on an appeal from a judgment, order or decree of a consistory court, the Court of Ecclesiastical Causes Reserved considers that no matter of doctrine, ritual or ceremonial is involved, it must refer the appeal (despite any certificate to the contrary under subsection (4)) to the Arches Court of Canterbury or the Chancery Court of York, as appropriate, for it to hear and determine.

(7) If, in proceedings on an appeal from a judgment, order or decree of a consistory court, the Arches Court of Canterbury or the Chancery Court of York considers that the appeal to any extent relates to matter involving doctrine, ritual or ceremonial, it must refer the appeal (despite any certificate to the contrary under subsection (4)) to the Court of Ecclesiastical Causes Reserved for it to hear and determine.

(8) Where the Dean of the Arches and Auditor and the two judges referred to in section 17(2) jointly issue practice directions about the reference of an appeal under subsections (5) to (7), the reference must, subject to rules, be made in accordance with those practice directions.

(9) In the exercise of its jurisdiction under this Measure, the Court of Ecclesiastical Causes Reserved is not bound by any decision of the Judicial Committee of the Privy Council in relation to matter of doctrine, ritual or ceremonial.

Commencement Information
I18 S. 18 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Commissions of review

19 Commissions of review: continuation

(1) There is to continue to be power for Her Majesty to appoint commissioners who are to have jurisdiction to review a finding of the Court of Ecclesiastical Causes Reserved in proceedings under section 18.

(2) A party to proceedings in the Court of Ecclesiastical Causes Reserved under section 18 may lodge with the Clerk of the Crown in Chancery a petition addressed to Her Majesty praying that She will be pleased to cause a finding of the Court in those proceedings to be reviewed.

(3) A petition under this section—
   (a) must be in the form specified in rules;
   (b) must be lodged with the Clerk of the Crown in Chancery within the period so specified after the finding to which it relates.

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

(4) On a petition being lodged under this section, a commission must be directed under the Great Seal to such five persons as Her Majesty may nominate to review the finding to which the petition relates.

(5) Three of the nominees under subsection (4) must be persons each of whom—
  (a) is a judge of the Supreme Court or a member of the supplementary panel under section 39 of the Constitutional Reform Act 2005, and
  (b) has made a declaration that he or she is a communicant.

(6) Two of the nominees under subsection (4) must be Lords Spiritual in the House of Lords.

(7) A commission appointed under this section is to be known as a Commission of Review.

Commencement Information
I19 S. 19 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

20 Proceedings

(1) Proceedings before a Commission of Review exercising jurisdiction under this Measure are, subject to this section, to be brought and conducted in such manner as rules may specify.

(2) To assist a Commission of Review on a review under this Measure of a decision of the Court of Ecclesiastical Causes Reserved involving a question of doctrine, the Upper House of each the Convocations must jointly appoint a panel of persons, in such numbers as those Houses may determine, consisting of—
  (a) members of either House, and
  (b) if the Houses think fit, theologians who are not members of either House.

(3) Where a review under this Measure by a Commission of Review involves a question of doctrine, the Commission must request five persons selected by it from the panel appointed under subsection (2)—
  (a) to sit with it as advisers, and
  (b) to give such assistance on the matters of doctrine involved in the review as the Commission may require.

(4) The judgment of the Commission must accord with the opinion of the majority of its members; and each member of the Commission must state his or her own opinion on the question under review.

(5) In the exercise of its jurisdiction under this Measure, a Commission of Review is not bound by any decision of the Judicial Committee of the Privy Council in relation to matter of doctrine, ritual or ceremonial.

(6) A decision of a Commission of Review under this Measure or the Ecclesiastical Jurisdiction Measure 1963 is binding on a subsequent Commission under this Measure, except in relation to a matter on which new information or evidence is adduced which was not before the previous Commission.

Commencement Information
I20 S. 20 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Privy Council appeals

21 Appellate jurisdiction of Her Majesty in Council

(1) Her Majesty in Council has jurisdiction to hear and determine an appeal from a judgment of the Arches Court of Canterbury or the Chancery Court of York in proceedings under section 14(1)(a) (appeals in faculty cases).

(2) An appeal under this section may be brought by any party to the proceedings with the permission of Her Majesty in Council.

Commencement Information
I21 S. 21 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Miscellaneous

[F4 21A Training requirements for ecclesiastical judges

(1) The Dean of the Arches and Auditor may by regulations make provision as to the training requirements to be met by ecclesiastical judges.

(2) "Ecclesiastical judge" means—
- (a) the Dean of the Arches and Auditor,
- (b) the Vicar-General of each province,
- (c) the chancellor of each diocese,
- (d) the chair of a disciplinary tribunal for the purposes of the Clergy Discipline Measure 2003, or
- (e) the deputy of a person specified in paragraphs (a) to (d).

(3) The Dean may not make regulations under subsection (1) without having obtained the agreement of the Vicar-General of each province.

(4) The Dean may not include in regulations under subsection (1) provision as to the training requirements to be met by an ecclesiastical judge coming within subsection (2)(d) without having also obtained the agreement of the president of tribunals.

(5) Regulations under this section may make different provision for different purposes.

(6) Regulations under this section—
- (a) must be laid before the General Synod, and
- (b) may not come into force unless they have been approved by the Synod.**]**

Textual Amendments

F4 S. 21A inserted (17.5.2024) by Church of England (Miscellaneous Provisions) Measure 2024 (No. 1), **ss. 10(1)**, 22(4); S.I. 2024/631, art. 2

22 Vacancy in see etc.

(1) A vacancy in the see of Canterbury does not affect the exercise of jurisdiction by the Arches Court of Canterbury.

(2) A vacancy in the see of York does not affect the exercise of jurisdiction by the Chancery Court of York.

(3) A vacancy in the see of Canterbury or York does not affect the exercise of jurisdiction by the Vicar-General's court of the province in question.

(4) A vacancy in the see of Canterbury or York or of the bishop of any other diocese does not affect the exercise of jurisdiction by the consistory court of the diocese in question.

(5) A vacancy in a see as mentioned in this section does not affect the discharge of functions by a judge, member or officer of a court referred to in this section.

(6) A vacancy in an archiepiscopal or diocesan see does not affect the discharge by the Vicar-General of the province or diocese in question or by a surrogate of the Vicar-General of the functions of the Vicar-General or surrogate.

(7) The appointment of a person as chancellor, registrar or Vicar-General of a diocese is not terminated merely because—
   (a) a vacancy in the diocesan see is terminated, and
   (b) the appointment has not previously been confirmed by the Chapter of the cathedral of the diocese.

(8) The appointment of a person as Vicar-General of a province is not terminated merely because—
   (a) a vacancy in the archiepiscopal see is terminated, and
   (b) the appointment has not previously been confirmed by the metropolitical church of the diocese.

(9) The appointment of a person as a surrogate of the Vicar-General of a diocese is not terminated merely because a vacancy occurs in the office of that Vicar-General.

(10) In the application of subsection (7)(b) to the Cathedral Church of Christ in Oxford, the reference to the Chapter is to be read as a reference to the Dean and Chapter.

Commencement Information

I22 S. 22 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

23 Officials Principal etc.

(1) The Dean of the Arches and Auditor is, by virtue of that office, to continue to be the Official Principal of the Archbishop of Canterbury and the Official Principal of the Archbishop of York in the capacity each has as Metropolitan.

(2) The Dean of the Arches and Auditor is to continue to be Master of the Faculties to the Archbishop of Canterbury.

(3) The chancellor of a diocese is, by virtue of that office, to continue to be the Official Principal of the bishop of the diocese.

Commencement Information
I23 S. 23 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

24 Place where courts etc. to sit

Proceedings of a court or commission exercising jurisdiction under this Measure may be held in any place convenient to it, due regard being had to the convenience of parties and witnesses.

Commencement Information
I24 S. 24 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

25 Evidence and contempt

(1) A court or commission exercising jurisdiction under this Measure has the same powers as the High Court in relation to—
  (a) the attendance and examination of witnesses, and
  (b) the production and inspection of documents.

(2) Subsection (3) applies if a person does or omits to do something in connection with proceedings before, or in connection with an order made by, a court or commission exercising jurisdiction under this Measure—
  (a) which is in contempt of that court or commission by virtue of an enactment, or
  (b) which would be in contempt of that court or commission if it had power to commit for contempt.

(3) The judge or presiding judge of the court or the presiding member of the commission may send to the High Court a certificate under his or her hand stating the act or omission.

(4) The High Court may—
  (a) on receiving a certificate under subsection (3), inquire into the alleged act or omission, and
  (b) after hearing any witness for or against the person subject to the allegation and any statement in defence, exercise the same jurisdiction and powers as if the person were guilty of contempt of the High Court.

(5) In subsection (2), "order" includes—
  (a) a special citation under section 70,
  (b) an injunction under section 71,
  (c) a special citation under section 20(1) of the Care of Cathedrals Measure 2011, and

(d) an injunction under section 20(3) of that Measure.

Commencement Information
I25 S. 25 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

26 Costs

(1) A court or commission exercising jurisdiction under this Measure may at any stage of proceedings before it order a party to give security for costs.

(2) A court or commission exercising jurisdiction under this Measure may make an order against a party to proceedings before it for payment of—
(a) taxed costs,
(b) a specified proportion of the taxed costs,
(c) the taxed costs from or up to a specified stage of the proceedings, or
(d) a specified gross sum in lieu of taxed costs.

(3) The power to tax costs under this section is exercisable by a registrar; and the power must be exercised in such manner as rules may specify.

(4) Where an order for payment of costs is made under subsection (2)(a), (b) or (c), a party to the proceedings may appeal against the registrar's taxation to the chancellor of the diocese in which the proceedings were brought.

(5) An appeal under subsection (4) is to be lodged and conducted in such manner as rules may specify.

(6) On an appeal under subsection (4), the chancellor may confirm or vary the registrar's taxation.

(7) Costs ordered to be paid under this section are, if the county court so orders, recoverable—
(a) under a warrant issued by the county court (see section 85 of the County Courts Act 1984), or
(b) otherwise as if the sum were payable under an order of the county court.

(8) For the purposes of subsection (7), a certificate stating that the sum specified is the sum due to be paid by the person referred to, and purporting to be signed by the registrar of the diocese or province in which the order for costs was made, is conclusive evidence of the facts certified.

(9) In this section, "costs" includes fees, charges, disbursements, expenses and remuneration.

Commencement Information
I26 S. 26 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

27 Other ecclesiastical jurisdictions

Schedule 1 (which makes provision in relation to other ecclesiastical jurisdictions) has effect.

Commencement Information
I27 S. 27 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

PART 2

LEGAL OFFICERS

28 Provincial registrar: continuation of office

(1) For the province of Canterbury, there is to continue to be an office the holder of which is known as the registrar of the province of Canterbury; and the holder of that office is also the legal adviser to the Archbishop of Canterbury.

(2) For the province of York, there is to continue to be an office the holder of which is known as the registrar of the province of York; and the holder of that office is also the legal adviser to the Archbishop of York.

(3) The registrar of a province is appointed by the archbishop of the province.

(4) The registrar of the province of Canterbury must exercise the functions conferred or imposed by or under an enactment or Canon on that registrar or on the registrar of the Arches Court of Canterbury.

(5) The registrar of the province of York must exercise the functions conferred or imposed by or under an enactment or Canon on that registrar or on the registrar of the Chancery Court of York.

(6) The office of registrar of a province may be held by two persons jointly; but either of those persons may exercise any of the functions mentioned in subsection (4) or (5).

(7) The references in subsections (4) and (5) to functions conferred or imposed on the registrar include a reference to any function which—
   (a) had been exercisable by the archbishop's legal secretary before the abolition of that office under section 6(4) of the Ecclesiastical Judges and Legal Officers Measure 1976, and
   (b) was exercisable by the registrar by virtue of section 3(2) of that Measure immediately before the commencement of this section.

(8) Before appointing a person as the registrar of a province, the archbishop of the province must consult the Archbishops' Council if the person would, in acting under that appointment, be exercising—
   (a) functions exercisable as Joint Registrar of the General Synod (see Article 4(3) of the Constitution of the General Synod in Schedule 2 to the Synodical Government Measure 1969), or
   (b) functions relating to or connected with the election or choice of members of either Convocation or the House of Laity of the General Synod.

Commencement Information
I28 S. 28 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

29 Provincial registrar: deputy etc.

(1) The registrar of a province may, with the consent of the archbishop of the province, appoint a fit and proper person to act as deputy registrar of the province for such period or for such purpose as is specified in the instrument of appointment.

(2) A person appointed as deputy under subsection (1) has the same powers and duties as the registrar; but, in the case of an appointment for a specified purpose, the reference to having those powers and duties is a reference to having them for that purpose only.

(3) Where the registrar of a province ceases to hold that office, a person appointed as deputy under subsection (1) ceases to hold that office when a new registrar is appointed.

(4) Subsection (5) applies if—

(a) in the opinion of the archbishop, the registrar of the province is for any reason unable or unwilling to exercise the duties of registrar or it would be inappropriate for him or her to exercise them, and

(b) there is no person appointed as deputy under subsection (1) able to perform those duties.

(5) The archbishop may request the registrar of the other province to appoint a fit and proper person to perform the duties for such period as is specified in the instrument of appointment.

(6) A person appointed under subsection (5) has the same powers and duties as the registrar referred to in subsection (4).

(7) Before the appointment of a person as deputy registrar of a province is made, the archbishop of the province must consult the Archbishops' Council if the person would, in acting under that appointment, be exercising functions of the description given in section 28(8).

Commencement Information
I29 S. 29 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

30 Diocesan registrar: continuation

(1) For each diocese, there is to continue to be an office the holder of which is known as the registrar of the diocese; and the holder of that office is also the legal adviser to the bishop of the diocese.

(2) The registrar of a diocese is appointed by the bishop of the diocese.

(3) Before making an appointment under subsection (2), the bishop must consult the bishop's council and standing committee of the diocesan synod.

(4) The registrar of a diocese must exercise the functions conferred or imposed by or under an enactment or Canon on the registrar or on the registrar of the consistory court of the diocese.

(5) The office of registrar of a diocese may be held by two persons jointly; but either of those persons may exercise any of the functions referred to in subsection (4).

(6) The reference in subsection (4) to functions conferred or imposed on the registrar includes a reference to any function which—

(a) had been exercisable by the bishop's legal secretary before the abolition of that office under section 6(4) of the Ecclesiastical Judges and Legal Officers Measure 1976, and

(b) was exercisable by the registrar by virtue of section 4(2) of that Measure immediately before the commencement of this section.

Commencement Information

I30 S. 30 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

31 Diocesan registrar: deputy

(1) The registrar of a diocese may, with the consent of the bishop of the diocese, appoint a fit and proper person to act as deputy registrar of the diocese for such period or for such purpose as is specified in the instrument of appointment.

(2) A person appointed as deputy under subsection (1) has the same powers and duties as the registrar; but, in the case of an appointment for a specified purpose, the reference to having those powers and duties is a reference to having them for that purpose only.

(3) Where the registrar of a diocese ceases to hold that office, a person appointed as deputy under subsection (1) ceases to hold that office when a new registrar is appointed.

(4) Subsection (5) applies if—

(a) in the opinion of the bishop of the diocese, the registrar of the diocese is for any reason unable or unwilling to exercise the duties of registrar or it would be inappropriate for him or her to exercise them, and

(b) there is no person appointed as deputy under subsection (1) able to perform those duties.

(5) The bishop may request the registrar of the province in which the diocese is situated to appoint a fit and proper person to perform the duties for such period as is specified in the instrument of appointment.

(6) A person appointed under subsection (5) has the same powers and duties as the registrar of the diocese.

(7) In a case where the registrar of a diocese is also the registrar of the province within which the diocese is situated, subsection (5) has effect as if the reference to the registrar of that province were a reference to the registrar of the other province.

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

Commencement Information

I31 S. 31 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

32 Registrars: term of office

(1) The term of a person's appointment as registrar of a province or diocese ends with the day on which the person reaches—

(a) the age of 70, or

(b) such lower age as the House of Bishops may specify in regulations.

(2) Provision made in regulations under subsection (1)(b) does not apply to a person who, at the date on which the provision comes into force, is the holder of an office to which the provision applies.

(3) The registrar of a province may resign the office by instrument in writing signed by him or her and addressed to, and served on, the archbishop of the province.

(4) The registrar of a diocese may resign the office by instrument in writing signed by him or her and addressed to, and served on, the bishop of the diocese.

(5) An instrument of the kind referred to in subsection (3) or (4) must specify the date on which the resignation is to take effect; and that date must be—

(a) at least twelve months after the service of the instrument, or

(b) such earlier date as the archbishop or bishop in question may allow.

(6) The archbishop of a province may, with the consent of the other archbishop, terminate the appointment of a person as registrar of the province; the power is exercisable by instrument in writing signed by the archbishop and addressed to, and served on, the person.

(7) The bishop of a diocese may, with the consent of the archbishop of the province in which the diocese is situated, terminate the appointment of a person as registrar of the diocese; the power is exercisable by instrument in writing signed by the bishop and addressed to, and served on, the person.

(8) An instrument of the kind referred to in subsection (6) or (7) must specify the date on which the termination is to take effect; and that date must be at least twelve months after the service of the instrument.

(9) Regulations under this section—

(a) must be laid before the General Synod, and

(b) may not come into force unless they have been approved by the Synod.

Commencement Information

I32 S. 32 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

33 Regulations as to maximum number of offices held

(1) The House of Bishops may by regulations make provision with respect to the maximum number of registrarships, whether of a province or of a diocese, which any one person may hold.

(2) Regulations under subsection (1) may not prohibit a person who, at the time the provision comes into force, holds more than the specified maximum number of registrarships from continuing to do so.

(3) Regulations under subsection (1)—
- (a) must be laid before the General Synod, and
- (b) may not come into force unless they have been approved by the Synod.

Commencement Information
I33 S. 33 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

34 Prohibition on appointment as archdeacon's official principal or registrar

(1) The prohibition on making an appointment to the office of official principal of an archdeacon or to the office of registrar of an archdeacon (imposed by section 7 of the Ecclesiastical Judges and Legal Officers Measure 1976) is to continue.

(2) Any duty which, immediately before the commencement of this section, was exercisable by virtue of section 7(2) of the Ecclesiastical Judges and Legal Officers Measure 1976 (duty of chancellor to exercise duties of official principal and duty of diocesan registrar to exercise duties of registrar) is to continue to be exercisable on the same basis.

(3) For the avoidance of doubt, it is hereby declared that the registrar of an archdeacon has no duty to attend at a visitation of the archdeacon; and, accordingly, the registrar of a diocese has no duty by virtue of subsection (2) to attend at an archdeacon's visitation.

Commencement Information
I34 S. 34 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

PART 3

CARE OF CHURCHES ETC.

General duty

35 Duty to have regard to church's purpose [F5and environmental protection]

A person carrying out functions of care and conservation under this Measure, or under any other enactment or any rule of law relating to churches, must have due regard to **[**F6—
- (a)**]** the role of a church as a local centre of worship and mission **[**F7, and

(b) the importance of environmental protection.**]**

Textual Amendments

F5 Words in s. 35 heading inserted (17.5.2024) by Church of England (Miscellaneous Provisions) Measure 2024 (No. 1), **ss. 13(1)(c)**, 22(4); S.I. 2024/631, art. 2

F6 Word in s. 35 inserted (17.5.2024) by Church of England (Miscellaneous Provisions) Measure 2024 (No. 1), **ss. 13(1)(a)**, 22(4); S.I. 2024/631, art. 2

F7 S. 35(b) and word inserted (17.5.2024) by Church of England (Miscellaneous Provisions) Measure 2024 (No. 1), **ss. 13(1)(b)**, 22(4); S.I. 2024/631, art. 2

Commencement Information

I35 S. 35 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Diocesan Advisory Committees

36 Advisory committees: continuation

(1) In every diocese there is to continue to be an advisory committee for the care of churches, known as the Diocesan Advisory Committee.

(2) Each advisory committee must continue to have a written constitution provided by the diocesan synod which contains—

(a) the provisions set out in Schedule 2 or provisions to like effect, and

(b) such other provisions as were included under section 2(3) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (diocesan synod's power to make provision on procedure and sub-committees).

(3) The diocesan synod may by resolution amend the advisory committee's written constitution to include further provision consistent with the provisions referred to in subsection (2).

Commencement Information

I36 S. 36 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

37 Advisory committees: functions

(1) The advisory committee must act as an advisory body on matters affecting places of worship in the diocese and, in particular, must give advice when requested by a relevant person on matters relating to—

(a) the grant of faculties,

(b) the architecture, archaeology, art or history of a place of worship,

(c) the use, care, planning, design or closure of a place of worship,

(d) the use or care of the contents of a place of worship, or

(e) the use or care of a churchyard or burial ground.

(2) Each of the following is a “relevant person” for the purposes of subsection (1)—

(a) the bishop of the diocese,

(b) the chancellor of the diocese,

(c) the archdeacon of each archdeaconry in the diocese,
(d) the PCC for each parish in the diocese,
(e) a person intending to apply for a faculty in the diocese,
(f) the mission and pastoral committee of the diocese,
(g) a person engaged in the planning, design or building of a new place of worship in the diocese, not being a place within the jurisdiction of the consistory court, and
(h) such other persons as the committee considers appropriate.

(3) The committee must review and assess the degree of risk to materials, or of loss to archaeological or historic remains or records, arising from proposals relating to the conservation, repair or alteration of a place of worship, churchyard or burial ground or the contents of such a place.

(4) The committee must develop and maintain a repository of—
(a) records relating to the conservation, repair and alteration of places of worship, churchyards and burial grounds, and
(b) other material (including inspection reports, inventories, technical information and photographs) relating to the work of the committee.

(5) The committee must issue guidance for the preparation and storage of the records referred to in subsection (4).

(6) The committee must make recommendations as to the circumstances in which the preparation of a record of the kind referred to in subsection (4) should be made a condition of a faculty.

(7) The committee must—
(a) take action to encourage the care and appreciation of places of worship, churchyards and burial grounds and the contents of such places, and
(b) for that purpose, publicise methods of conservation, repair, construction, adaptation and redevelopment.

[[F8](7A) Where rules require a relevant person to carry out consultation, the relevant person may delegate the discharge of that function to the advisory committee.**]**

(8) The advisory committee must carry out such other functions—
(a) as may be imposed on it by an enactment or by a Canon;
(b) as may be imposed on it by a resolution of the diocesan synod;
(c) as it may be requested to carry out by the bishop or chancellor.

(9) In carrying out its functions, the committee or any sub-committee it has must have due regard to the rites and ceremonies of the Church of England.

[[F9](9A) The committee may delegate the exercise of any of its functions to an officer of the committee.**]**

(10) Any expenses incurred for enabling the committee to carry out its functions properly and effectively, and which were approved by the diocesan board of finance before being incurred, are to be paid by the board.

(11) As soon as practicable after the end of each year, the committee must prepare a report of its work and proceedings during that year and must cause the report to be laid before

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

the diocesan synod; and the secretary of the committee must send a copy of the report to the Church Buildings Council.

Textual Amendments

F8 S. 37(7A) inserted (17.5.2024) by Church of England (Miscellaneous Provisions) Measure 2024 (No. 1), **ss. 13(2)**, 22(4); S.I. 2024/631, art. 2

F9 S. 37(9A) inserted (1.3.2019) by Church of England (Miscellaneous Provisions) Measure 2018 (No. 7), **ss. 12(1)**, 17(3); S.I. 2019/67, art. 2(1)(k)

Commencement Information

I37 S. 37 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

The list of places of worship

38 The list

(1) The Church Buildings Council must continue to maintain the list ("the list") which it was maintaining under section 1 of the Care of Places of Worship Measure 1999 immediately before the commencement of this section, being a list of eligible buildings which are, as a result of their inclusion in the list, subject to the faculty jurisdiction.

(2) A building is eligible for inclusion in the list if (subject to subsection (3))—

(a) it is subject to any peculiar jurisdiction and is used for worship according to the rites and ceremonies of the Church of England;

(b) it is a chapel forming part of an episcopal house of residence;

(c) it is a chapel or other place of worship owned or leased by or held in trust for a religious community;

(d) it does not come within paragraph (a), (b) or (c) but is part of a university, college, school, hospital, Inn of Court, almshouse or other public or charitable institution and is primarily used—

(i) for worship according to the rites and ceremonies of the Church of England, or

(ii) for joint worship by members of the Church of England and one or more other Churches;

(e) it is subject to a sharing agreement made on behalf of the Church of England in pursuance of the Sharing of Church Buildings Act 1969 and is used for worship.

(3) But a building is not eligible for inclusion in the list if—

(a) the Care of Cathedrals Measure 2011 applies to it,

(b) it is subject to the faculty jurisdiction of a consistory court, or

(c) it comes within Article 7(1)(a) to (d) of the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) (England) Order 2010 (ecclesiastical exemption: buildings used by other Churches).

(4) In this section and sections 39 to 44—

"building" does not include plant or machinery in the building;

"episcopal house of residence" has the same meaning as in section 3 of the Episcopal Endowments and Stipends Measure 1943.

[[F10]"religious community" has the same meaning as in the Canons (see Canon DA 1).**]**

Textual Amendments

F10 Words in s. 38(4) inserted (14.7.2021) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 1(5)**, 16(3); S.I. 2021/545, art. 2

Commencement Information

I38 S. 38 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

39 Application for inclusion in the list

(1) On an application for the inclusion of a building in the list, an application may also be made for the inclusion in the list of an adjoining building which is used wholly or mainly as a vestry or sacristy.

(2) On an application for the inclusion in the list of a building within section 38(2)(a) (peculiar) or (2)(e) (shared church) which is detached from any other building, an application may also be made for the inclusion in the list of—

(a) the curtilage of the building,

(b) a monument within the curtilage, or

(c) an object or structure forming part of the land within the curtilage which is used wholly or mainly for purposes ancillary to the purposes for which the building is used.

(3) A reference in sections 42 to 44 to a building included in the list is to be read in light of subsection (2).

(4) "Monument" includes a tomb, gravestone or other memorial and any kerb or setting forming part of it.

Commencement Information

I39 S. 39 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

40 Application: who may apply

(1) In the case of a building within section 38(2)(a) (peculiar), (2)(c) (building for religious community) or (2)(d) (public or charitable institution), an application for inclusion in or removal from the list must be made—

(a) if the building is held on charitable trusts, by the persons having the general control and management of the administration of the charity, or

(b) otherwise, by the person having the general control and management of the building.

(2) In the case of a building within section 38(2)(b) (episcopal house of residence), an application for inclusion in or removal from the list must be made by the bishop or archbishop concerned.

(3) In the case of a building within section 38(2)(e) (shared church), an application for inclusion in or removal from the list must be made by the person having the general control and management of the building.

(4) The person who is entitled to apply for the inclusion of a building in the list, or its removal from the list, is also entitled to apply to the Church Buildings Council for an alteration of the entry in the list relating to the building.

Commencement Information

I40 S. 40 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

41 Application: requirements for consent etc.

(1) An application within section 40(1)(b) (peculiar, building for religious community or public or charitable institution, where applicant has general control of building) relating to a building which is not subject to a tenancy may not be made without the consent of the owner.

(2) An application within section 40(1)(b) relating to a building which is subject to a tenancy may not be made without the consent—
- (a) if the applicant is the owner, of the tenant;
- (b) if the applicant is the tenant, of the owner;
- (c) otherwise, of the owner and the tenant.

(3) Subsections (1) and (2) do not apply if the Church Buildings Council is satisfied that—
- (a) the owner cannot be found after reasonable efforts to find the owner have been made, or
- (b) it is impracticable to seek the owner's consent.

(4) Subsection (2) does not apply if the Church Buildings Council is satisfied that—
- (a) the tenant cannot be found after reasonable efforts to find the tenant have been made, or
- (b) it is impracticable to seek the tenant's consent.

(5) In the case of a building within section 38(2)(a) (peculiar) or (2)(d) (public or charitable institution) in relation to which there is a Visitor, an application for inclusion in or removal from the list may not be made without the consent of the Visitor.

(6) In the case of a building within section 38(2)(b) (episcopal house of residence), an application for inclusion in or removal from the list may not be made without the consent of the Church Commissioners.

(7) Nor may an application of the kind mentioned in subsection (6) be made—
- (a) in the case of Lambeth Palace or Old Palace Canterbury, during a vacancy in the see of Canterbury;
- (b) in the case of Bishopthorpe Palace, during a vacancy in the see of York;
- (c) in any other case, during a vacancy in the see of the bishop of the diocese in which the building is situated.

(8) In the case of a building within section 38(2)(c) (building for religious community), an application for inclusion in or removal from the list may not be made without the

consent of the superior of the religious community concerned; and the superior may consult the Visitor before deciding whether or not to consent.

(9) In the case of a building within section 38(2)(e) (shared church), an application for inclusion in or removal from the list may not be made unless the requirements of the sharing agreement concerned, or of any arrangements made under it, relating to consultation or consent in the management of the building have been met.

(10) In the case of a building which is part of a prison, an application for inclusion in or removal from the list may not be made without the consent of the Chaplain-General of Prisons.

(11) An application for inclusion in or removal from the list must be made in the manner specified by rules.

(12) "Owner", in relation to a building, means the person who is for the time being the estate owner of the fee simple in the building.

(13) "Tenant", in relation to a building subject to a tenancy, means the person who is for the time being entitled to the tenancy.

Commencement Information

I41 S. 41 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

42 Determination of application, removal from list

(1) On an application for the inclusion of a building in the list, or for the removal of a building from the list, the Church Buildings Council must grant the application unless it is satisfied that the application does not meet—

(a) the requirements of sections 38 to 41, or

(b) the requirements of any rules which relate to the application.

(2) The Church Buildings Council may remove a building from the list if it considers that—

(a) the building is no longer eligible for inclusion, or

(b) an order or direction of a court in connection with its faculty jurisdiction, or an undertaking given in connection with the application for inclusion, has not been complied with.

(3) But the Council may not act under subsection (2) without having given the person who is entitled to make an application in respect of the building under section 40 an opportunity to show why the building should not be removed from the list.

(4) The removal of a building from the list under this section does not affect sections 69 to 73 (orders in case of default etc.) in their application to the building or anything done under any of those sections before the removal.

Commencement Information

I42 S. 42 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

43 Effect of inclusion in the list

(1) A building included in the list and any object or structure fixed to it (other than plant or machinery in the building) are subject to the faculty jurisdiction of the consistory court of the diocese in which the building is situated.

(2) Accordingly, the provisions of this Measure (other than sections 56 to 58) and the provisions of any other Measure or of any rules or other instrument relating to the faculty jurisdiction apply to the building and any such object or structure.

(3) If a chapel forming part of Lambeth Palace is included in the list—

(a) the Vicar-General's court of Canterbury is to exercise the faculty jurisdiction of the consistory court in relation to the chapel,

(b) the registrar of the province of Canterbury is to act as registrar of the Vicar-General's court for that purpose,

(c) the Church Buildings Council is to exercise the functions of the advisory committee in relation to the chapel, and

(d) in the application to the chapel of this Measure or of any other Measure or rules or other instrument relating to the faculty jurisdiction, a reference to a consistory court, to the registrar of a diocese or to an advisory committee is to be read in light of paragraphs (a) to (c).

Commencement Information

I43 S. 43 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

44 The list: supplementary provision

(1) The list must, in the case of each building included in it, contain or have attached to it such details of the objects and structures fixed to the building as rules specify.

(2) The list must be open by appointment to inspection by members of the public at the offices of the Church Buildings Council during normal office hours.

(3) A person is entitled to be supplied with a copy of an entry or document relating to a building included in the list on payment of such charge as the Council may from time to time determine in respect of the costs incurred by it.

(4) The Council must, at least once every five years, send a copy of the list to—

(a) the Secretary of State,

(b) the Historic Buildings and Monuments Commission for England, and

(c) each national amenity society.

(5) When acting under subsection (4), the Council must also send to each advisory committee in whose area a building included in the list is situated a copy of those parts of the list which relate to the building.

(6) Where a building is included in or removed from the list, or the entry relating to a building included in the list is altered, the Council must in writing inform—

(a) the registrar of the diocese in which the building is situated,

(b) the advisory committee of that diocese, and

(c) each person mentioned in subsection (4).

(7) On receiving a document under subsection (5) or (6), the advisory committee of a diocese must send to each local planning authority in whose area a building mentioned in the document is situated a copy of those parts of the document that relate to that building.

(8) "Local planning authority", in relation to an area, means the body exercising the functions of the local planning authority under section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in that area.

Commencement Information
I44 S. 44 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Inspection

45 Scheme for inspection of church or building in the list

(1) In the case of each diocese, the scheme established by the diocesan synod or the bishop under section 1 or 1B of the Inspection of Churches Measure 1955, providing for the inspection of every church or relevant building in the diocese at least once every five years and having effect immediately before the commencement of this section, continues to have effect.

(2) The scheme contains—

(a) provision establishing a fund by means of contributions from parochial, diocesan or other sources;

(b) provision for the payment out of that fund or otherwise of the cost of inspecting churches or relevant buildings in the diocese;

(c) provision for the appointment of **[**[F11]persons**]** to inspect the churches or relevant buildings in the diocese and make a report on each one inspected;

[F12](d) . . . . . .

[F12](e) . . . . . .

(f) such other provisions as were included under section 1(2)(e) or 1B(1) of the Inspection of Churches Measure 1955 (power of diocesan synod or bishop to make provisions consistent with that Measure).

[[F13](2A) In relation to each church in the diocese, the provision specified in subsection (2)(c) must provide—

(a) for the PCC of the parish in which the church is situated to appoint a person to inspect the church and to make a report on the inspection,

(b) for the PCC not to make the appointment unless it—

(i) has obtained and had regard to advice from the advisory committee on the appointment, and

(ii) is satisfied that the person to be appointed has the necessary qualifications and experience, and

(c) for a copy of the report on the inspection to be sent to—

(i) the archdeacon of the archdeaconry in which the church is situated,

(ii) the PCC,

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

(iii) the incumbent of the benefice to which the parish in which the church is situated belongs, and

(iv) the secretary of the advisory committee.

(2B) In relation to each relevant building in the diocese, the provision specified in subsection (2)(c) must provide—

(a) for the manager of the building to appoint a person to inspect the building and to make a report on the inspection,

(b) for the manager of the building not to make the appointment unless the manager—

(i) has obtained, and had regard to, advice from the advisory committee on the appointment, and

(ii) is satisfied that the person to be appointed has the necessary qualifications and experience, and

(c) for a copy of the report on the inspection to be sent to—

(i) the archdeacon of the archdeaconry in which the building is situated,

(ii) the secretary of the advisory committee, and

(iii) the Church Buildings Council.**]**

(3) The diocesan synod may at any time establish a further scheme to replace the previous scheme (regardless of whether that previous scheme was established by the diocesan synod or by the bishop); and a further scheme—

(a) must be for the purpose specified in subsection (1),

(b) must contain the provision specified in **[**[F14]subsection (2)(a) to (c)**]**, and

(c) may contain such other provision not inconsistent with this section or sections 46 to 48 as the diocesan synod thinks fit.

(4) A scheme established under subsection (3) and passed at a meeting of the diocesan synod—

(a) must be signed by the chair of the meeting, and

(b) comes into operation on the date on which it is signed.

[[F15](4A) In exercising a function under the scheme referred to in this section, a PCC, the manager of a relevant building or an advisory committee must have regard to any guidance issued by the Church Buildings Council.**]**

(5) "Relevant building" means a building included in the list other than a building within section 38(2)(b) (episcopal house of residence).

[[F16](5A) A reference to the manager of a relevant building is—

(a) if the building is held on charitable trusts, a reference to the persons who have the general control and management of the administration of the charity;

(b) in any other case, a reference to the person who has the general control and management of the building.**]**

[F17](6) . . . . . .

Textual Amendments

F11 Word in s. 45(2)(c) substituted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(1)(a)**, 16(3); S.I. 2020/835, art. 2

F12 S. 45(2)(d)(e) omitted (1.9.2020) by virtue of Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(1)(b)**, 16(3); S.I. 2020/835, art. 2

F13 S. 45(2A)(2B) inserted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(2)**, 16(3); S.I. 2020/835, art. 2

F14 Words in s. 45(3)(b) substituted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(3)**, 16(3); S.I. 2020/835, art. 2

F15 S. 45(4A) inserted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(4)**, 16(3); S.I. 2020/835, art. 2

F16 S. 45(5A) inserted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(5)**, 16(3); S.I. 2020/835, art. 2

F17 S. 45(6) omitted (1.9.2020) by virtue of Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(6)**, 16(3); S.I. 2020/835, art. 2

Commencement Information

I45 S. 45 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

46 Inspection: contents etc.

(1) An inspection of a church under the scheme referred to in section 45 must include an inspection of—

(a) every movable article in the church which the inspector is directed by the archdeacon, after consultation with the advisory committee of the diocese, to treat as being—

(i) of outstanding architectural, artistic, historical or archaeological value,

(ii) of significant monetary value, or

(iii) at special risk of being stolen or damaged;

(b) every other article in the church which the inspector considers to be of the description in sub-paragraph (i), (ii) or (iii) of paragraph (a);

(c) every ruin in the churchyard which is designated by the Council for British Archaeology and the Historic Buildings and Monuments Commission for England acting jointly as being of outstanding architectural, artistic, historical or archaeological value;

(d) every tree in the churchyard belonging to the church in respect of which a tree preservation order under the Town and Country Planning Act 1990 is in force.

(2) Any expenses properly incurred by a PCC, with the prior approval of the diocesan board of finance, for the purpose of implementing a recommendation contained in a report made in respect of a ruin under subsection (1)(c) must be paid by the board.

(3) A reference in this section or section 45 or 47 to the inspection of a church is to be read in light of subsection (1).

(4) "Ruin" means a site which comprises the remains of a building which are above the surface of the land; and for this purpose "site" does not include—

(a) a monument (within the meaning of section 66), or

(b) a site which is used for the purposes of public worship according to the rites and ceremonies of the Church of England.

Commencement Information

I46 S. 46 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

47 Archdeacon's power to require inspection of church

(1) This section applies where an archdeacon finds on a survey of the churches of his or her jurisdiction, or at any other time, that a church in the archdeaconry or a relevant article in a church in the archdeaconry has not been inspected to his or her satisfaction [F18]... for at least five years.

(2) The archdeacon may serve on the PCC of the parish in which the church is situated a written notice requiring the PCC to cause the church or relevant article to be inspected in accordance with the scheme referred to in section 45.

(3) A relevant article, in relation to a church, is a movable article in the church which the archdeacon, after consultation with the advisory committee, considers to be—

(a) of outstanding architectural, artistic, historical or archaeological value,

(b) of significant monetary value, or

(c) at special risk of being stolen or damaged.

(4) At any time after the expiry of three months beginning with the date of service of a notice under subsection (2), if the church or relevant article has not in the meantime been inspected as mentioned in subsection (1), the archdeacon may, with the consent of the bishop of the diocese concerned, make arrangements for the inspection and report required by the scheme referred to in section 45 to be done.

(5) Where a church or relevant article is inspected under arrangements made under subsection (4), the cost of the inspection as certified by the archdeacon must be paid out of the fund established by the scheme referred to in section 45 (see subsection (2)(a) of that section).

(6) A notice under subsection (2) may be served by sending it by post—

(a) in a registered letter addressed to the secretary of the PCC by his or her name at his or her usual or last-known address, or

(b) if the secretary's name or residence is not known, in a registered letter addressed to the secretary by that title at the usual or last-known address of the incumbent of the parish.

[F19](7) . . . . . .

Textual Amendments

F18 Words in s. 47(1) omitted (1.9.2020) by virtue of Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(7)**, 16(3); S.I. 2020/835, art. 2

F19 S. 47(7) omitted (1.9.2020) by virtue of Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(8)**, 16(3); S.I. 2020/835, art. 2

Commencement Information

I47 S. 47 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

48 Power to require inspection of other place of worship

(1) Where an archdeacon finds that a relevant building in the archdeaconry (other than one which is part of a prison) has not been inspected to his or her satisfaction [F20]... for at least five years, the archdeacon must notify the Church Buildings Council.

(2) Where the Chaplain-General of Prisons finds that a relevant building which is part of a prison has not been inspected to his or her satisfaction [F21]... for at least five years, the Chaplain-General must notify the Church Buildings Council.

(3) At any time after the expiry of three months beginning with the date of notification under this section, if the building has not in the meantime been inspected as mentioned in subsection (1) or (2), the archdeacon or Chaplain-General (as the case may be) may, with the consent of the bishop of the diocese concerned, make arrangements for the inspection and report required by the scheme referred to in section 45 to be done.

(4) "Relevant building" **[**[F22]has**]** the meaning given in section 45.

Textual Amendments

F20 Words in s. 48(1) omitted (1.9.2020) by virtue of Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(9)**, 16(3); S.I. 2020/835, art. 2

F21 Words in s. 48(2) omitted (1.9.2020) by virtue of Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(9)**, 16(3); S.I. 2020/835, art. 2

F22 Word in s. 48(4) substituted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(10)**, 16(3); S.I. 2020/835, art. 2

Commencement Information

I48 S. 48 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Role of churchwardens, PCCs and archdeacons

49 Role of churchwardens in recording information

(1) The churchwardens in each parish must continue to maintain the terrier and inventory which they were maintaining under section 4(1)(a) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 ("the 1991 Measure") immediately before the commencement of this section, being respectively—

(a) a full terrier of all land appertaining to the church, and

(b) a full inventory of all articles appertaining to the church.

(2) The churchwardens in each parish must continue to maintain the log-book which they were maintaining under section 4(1)(b) of the 1991 Measure immediately before the commencement of this section, being a log-book which has inserted in it a full note of—

(a) all alterations, additions and repairs to, and other events affecting, the church and the land and articles appertaining to it, and

(b) the location of any other documents not kept with the log-book and which relate to those alterations, additions, repairs or events.

(3) In carrying out the duty under subsection (1) or (2), the churchwardens must act in consultation with the minister.

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(4) The form of the terrier, inventory and log-book must accord with such recommendations as the Church Buildings Council may make.

(5) The churchwardens must send a copy of the inventory to such person as the bishop of the diocese may from time to time designate.

(6) The churchwardens must notify the person designated under subsection (5) of any alterations to the inventory at such intervals as the bishop may direct.

(7) In the case of a parish which has more than one church, this section applies in relation to each church.

Commencement Information

I49 S. 49 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

50 Role of churchwardens in inspecting fabric etc. of church

(1) The churchwardens in each parish must, at least once every calendar year, inspect or cause an inspection to be made of the fabric of the church and all articles appertaining to the church.

(2) The churchwardens in each parish must, in every calendar year, deliver to the PCC and, on behalf of the PCC, to the annual parochial church meeting a report ("the annual fabric report") on the fabric of the church and all articles appertaining to it, having due regard to the inspection (or inspections) under subsection (1).

(3) The annual fabric report must include an account of all actions taken or proposed during the previous calendar year—

(a) for the protection and maintenance of the fabric of the church and the articles appertaining to it, and

(b) in particular, for the implementation of any recommendation contained in a report under the scheme referred to in section 45 (scheme for inspection of church).

(4) In carrying out the duty under subsection (1) or (2), the churchwardens must consult the minister.

(5) The annual fabric report must be delivered—

(a) to the PCC at its last meeting before the annual parochial church meeting, and

(b) to that annual parochial church meeting, with such amendments to the report as the PCC may make.

(6) The churchwardens must, as soon as practicable after the beginning of each calendar year, produce to the PCC—

(a) the terrier, the inventory and the log-book relating to events occurring in the previous calendar year, and

(b) such other records as the churchwardens consider likely to assist the PCC in carrying out its functions in relation to the fabric of the church and articles appertaining to it.

(7) The terrier, inventory and log-book produced to the PCC under subsection (6)(a) must be accompanied by a statement signed by the churchwardens to the effect that the contents of each are accurate.

(8) In the case of a parish which has more than one church, this section applies in relation to each church.

Commencement Information
I50 S. 50 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

51 Role of PCC in maintaining etc. trees in churchyards

(1) The powers, duties and liabilities of a PCC in relation to the care and maintenance of a churchyard which it is liable to maintain apply to trees in the churchyard and any proposed to be planted there.

(2) Where a tree in a churchyard which a PCC is liable to maintain is felled, lopped or topped—
   (a) the PCC may sell or otherwise dispose of the timber, and
   (b) the net proceeds of the sale must be paid to the PCC and applied towards the maintenance of the church or churchyard which it is liable to maintain.

(3) The Church Buildings Council must give written guidance to all PCCs as to the planting, felling, lopping and topping of trees in churchyards.

Commencement Information
I51 S. 51 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

52 Role of archdeacon in convening meeting in a case of default

(1) Where it appears to an archdeacon that something which ought to have been done in connection with the care of a church in the archdeaconry or an article appertaining to a church there has not been done, the archdeacon may convene an extraordinary meeting of the PCC, or an extraordinary parochial church meeting, in order to discuss the matter.

(2) The archdeacon must either take the chair or appoint a person to chair the meeting.

(3) The chair of the meeting, unless otherwise entitled to attend the meeting, is not entitled to vote on any resolution before the meeting.

Commencement Information
I52 S. 52 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

53 Role of archdeacon in ordering deposit of articles in place of safety

(1) This section applies if it appears to an archdeacon that an article appertaining to a church in the archdeaconry which the archdeacon considers to be of architectural, artistic, historical or archaeological value—

(a) is exposed to danger of loss or damage, and

(b) ought to be removed to a place of safety.

(2) The archdeacon may order that the article is to be removed and deposited in the place of safety specified in the order.

(3) Before making an order under this section, the archdeacon must, unless of the opinion that the article should be removed to a place of safety immediately—

(a) give a notice to the churchwardens, to any other person having custody of the article, to the PCC and to the advisory committee of the facts as they appear to the archdeacon, and

(b) inform the persons referred to in paragraph (a) that he or she will consider any written representations made by any of them to him or her before the date specified in the notice.

(4) The date specified for the purposes of subsection (3)(b) must be at least 28 days after the day on which the notice is given.

(5) Where notice is given under subsection (3)(a) (and not withdrawn), the archdeacon may not make an order under this section in respect of the article before the date specified for the purposes of subsection (3)(b) (or without having considered written representations made to him or her before that date).

(6) Where the archdeacon makes an order under this section without having given the advisory committee an opportunity to make representations to him or her in connection with the making of the order, the archdeacon must, as soon as practicable after the removal of the article concerned to a place of safety, notify the committee of the removal.

(7) An order made under this section by the archdeacon—

(a) must be in such form as rules may specify;

(b) must be directed to, and served on, the churchwardens and any other person having custody of the article.

(8) If a person on whom an order made under this section by the archdeacon is served refuses or fails to comply with the order, the archdeacon may apply to the consistory court of the diocese in which the article is for an order that the person must deliver the article to the place of safety specified in the order.

(9) The court may make an order under subsection (8) if it is satisfied that the order made by the archdeacon was made in accordance with this section.

(10) Where the archdeacon makes an order under this section, he or she must, within 28 days after the removal of the article to a place of safety, apply to the consistory court for a faculty authorising the retention of the article in the place of safety.

(11) "Article" does not include a record or register to which section 10(1) of the Parochial Registers and Records Measure 1978 applies.

Commencement Information
I53 S. 53 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Parochial libraries

54 Preservation etc. of parochial libraries

(1) A parochial library is to be preserved for the uses for which it was founded; and the orders and rules of the founder of the library are to be kept and observed.

(2) If a book belonging to a parochial library is removed and detained, the minister of the parish concerned, or any other person, may bring a claim for conversion in the name of the bishop of the diocese.

(3) On hearing a claim under subsection (2), the court may award damages of up to three times the amount that would be payable if the book belonged to the claimant and may award costs on an indemnity basis; and damages awarded under this subsection must be applied for the use and benefit of the library.

(4) The bishop of the diocese in which a parochial library is situated (or his or her commissary or official) or the archdeacon of the archdeaconry in which a parochial library is situated (or, where he or she so directs, his or her deputy)—
   (a) may, on a visitation, enquire into the state and condition of the library and may make such changes or take such remedial action as he or she thinks appropriate for dealing with grievances and defects relating to the library;
   (b) has free access to the library at such time or times as he or she may appoint.

(5) Subsection (4) does not apply to an archdeacon (or to his or her deputy) if the archdeacon is the incumbent of the place where the library is situated.

(6) The bishop of the diocese in which a parochial library is situated may appoint a person to view the state and condition of the library.

(7) For the purpose of better preserving the books belonging to a parochial library, and of showing the benefactions given to it, a book is to be kept in the library for entering and registering the books and benefactions; and the minister must enter, or cause to be entered, such benefactions and an account of all such books as are from time to time given and by whom they are given.

(8) For the purpose of better governing a parochial library and preserving it, the bishop of the diocese and the donor of a benefaction to the library acting jointly or (after the death of the benefactor) the bishop alone may make such rules and orders relating to the library, in addition to and consistent with those the benefactor thinks necessary and appropriate.

(9) Any rules and orders made under subsection (8) are to be entered in the book kept under subsection (7) or some other book prepared for the purpose and kept in the library.

(10) Subject to section 67 (which permits the granting of a faculty for the sale of a book in a parochial library), no book which was given to a parochial library before 1 January 1708 may be transferred; and any book given by a benefactor to the library on or after

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

that date may be transferred only if the bishop consents and there is a duplicate of the book.

(11) The reference in each of subsections (4) and (5) to an archdeacon's deputy is—

(a) if the archdeacon still has an official principal, a reference to that person, or

(b) in any other case, and by virtue of section 34(2), a reference to the chancellor of the diocese in which the parochial library is situated.

Commencement Information

I54 S. 54 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Interpretation

55 Interpretation of Part 3

(1) In this Part, unless otherwise indicated—

"advisory committee" means—

(a) in relation to a diocese, the Diocesan Advisory Committee of that diocese;

(b) in relation to an archdeaconry, the Diocesan Advisory Committee of the diocese in which the archdeaconry is situated;

"article" includes anything affixed to land or a building, and a reference to an article includes a reference to part of an article;

"building" includes a structure or erection, and a reference to a building includes a reference to part of a building;

"diocesan board of finance" has the same meaning **[**[F23]as "DBF" in the Church Property Measure 2018 (see section 49 of that Measure)**]**;

"land" includes buildings but, subject to that, the definition of the word given in Schedule 1 to the Interpretation Act 1978 does not apply;

"the list" means the list maintained under section 38;

"minister", in the case of a parish in which a special cure of souls has been assigned to a vicar in a team ministry by a scheme under the Mission and Pastoral Measure 2011 or by licence from the bishop, means that vicar;

"minister", in the case of a parish not of that description, means—

(a) the incumbent of the benefice to which the parish belongs, or

(b) a curate licensed to the charge of the parish or a minister acting as priest-in-charge of the parish, where rights of presentation are suspended;

"national amenity society" means—

(a) the Ancient Monuments Society,

(b) the Council for British Archaeology,

(c) the Georgian Group,

(d) the Society for the Protection of Ancient Buildings,

(e) the Victorian Society,

(f) the Twentieth Century Society, or

(g) such other group of persons as the Dean of the Arches and Auditor may from time to time designate as a national amenity society;

"parish" means—

(a) an ecclesiastical parish, or
(b) a district which is constituted as a conventional district for the cure of souls;

"place of worship" includes the curtilage of a place of worship.

(2) In the definition of "national amenity society" in subsection (1), the reference in each of paragraphs (a) to (f) to a named group of persons is a reference to the group of persons commonly known by that name, regardless of the form in which the group is for the time being constituted.

(3) In this Part, "church" means—
(a) a parish church,
(b) any other church or chapel which has been consecrated for the purpose of public worship according to the rites and ceremonies of the Church of England, and
(c) a building licensed for public worship according to the rites and ceremonies of the Church of England.

(4) In subsection (3)(a), "parish church" does not include a parish church which is a cathedral to which the Care of Cathedrals Measure 2011 applies.

(5) In subsection (3)(b), the reference to a church or chapel does not include a reference to—
(a) a cathedral church to which the Care of Cathedrals Measure 2011 applies,
(b) a church or chapel which is not subject to the jurisdiction of the bishop of a diocese, or
(c) the Cathedral Church of Christ in Oxford.

(6) In subsection (3)(c), the reference to a building licensed for public worship does not include a reference to a building—
(a) which is in a university, college, school, hospital or public or charitable institution but which has not been designated under section 43(2) of the Mission and Pastoral Measure 2011 as a parish centre of worship,
(b) which has been excluded from this Part by a direction of the bishop of the diocese with the approval of the advisory committee, or
(c) which is used solely for the purpose of religious services relating to burial or cremation.

(7) A notice, order or other document required by this Part to be served on or sent or given to a person may be served, sent or given by post, by delivering it to the person, or by leaving it at the person's proper address; and for that purpose and the purposes of section 7 of the Interpretation Act 1978, a person's proper address is that person's last known address.

(8) Nothing in this Part prejudices or affects the provisions of—
(a) the Ancient Monuments and Archaeological Areas Act 1979,
(b) the Town and Country Planning Act 1990,
(c) the Planning (Listed Buildings and Conservation Areas) Act 1990, or
(d) an instrument made under an Act referred to in paragraph (a), (b) or (c).

Textual Amendments

F23 Words in s. 55(1) substituted (1.3.2019) by Church Property Measure 2018 (No. 8), s. 53(2), **Sch. 1 para. 30**; S.I. 2019/97, art. 2

Commencement Information

I55 S. 55 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

PART 4

FACULTY JURISDICTION

Application of jurisdiction

56 Churches, churchyards and articles

For the avoidance of doubt and without prejudice to the jurisdiction of consistory courts under this Measure or under any other enactment or any rule of law, it is hereby declared that the jurisdiction of the consistory court of a diocese applies to every parish church in the diocese and every churchyard and article appertaining to it.

Commencement Information

I56 S. 56 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

57 Curtilages of churches

For the avoidance of doubt, it is hereby declared that, where unconsecrated land forms or is part of the curtilage of a church within the jurisdiction of the consistory court, that court has the same jurisdiction over that land as over the church.

Commencement Information

I57 S. 57 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

58 Buildings licensed for public worship on or after 1 March 1993

(1) A building licensed by the bishop of a diocese on or after 1 March 1993 for public worship according to the rites and ceremonies of the Church of England and the articles appertaining to the building are subject to the jurisdiction of the consistory court of the diocese as though the building were a consecrated church.

(2) But where the bishop of a diocese, after consultation with the advisory committee, considers that a building in the diocese licensed as mentioned in subsection (1) should not be subject to the faculty jurisdiction, the bishop may by order direct that subsection (1) is not to apply to the building.

(3) Subsection (4) applies where, in the case of a building in relation to which an order under subsection (2) is in force, the bishop of the diocese, after consultation with the

advisory committee, considers that an article appertaining to the building should be subject to the faculty jurisdiction because it is—

(a) of outstanding architectural, artistic, historical or archaeological value,

(b) of significant monetary value, or

(c) at special risk of being stolen or damaged.

(4) The bishop may by order direct that the article is to be subject to the jurisdiction of the consistory court of the diocese during such period as the order specifies.

(5) An article in relation to which an order under subsection (4) is in force is, during the period specified in the order, subject to the jurisdiction of the court as though it were an article appertaining to a consecrated church.

(6) The bishop of a diocese, after consulting with the advisory committee, may by order vary or revoke an order made under subsection (2) or (4) in relation to the diocese.

(7) The bishop of a diocese must send each order he or she makes under this section to the registrar of the diocese; and the registrar must file each order in the diocesan registry.

(8) The registrar is entitled to such fees as may be authorised by an order under section 86 for—

(a) filing an order under subsection (7);

(b) permitting a search for and inspection of an order filed under that subsection;

(c) providing a copy of an order filed under that subsection.

(9) An order under this section which has the effect of subjecting an article to the faculty jurisdiction does not—

(a) make unlawful any act done before the order was made, or

(b) require the grant of a faculty to confirm such an act.

Commencement Information

I58 S. 58 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

59 Buildings licensed for public worship before 1 March 1993

(1) This section applies where the bishop of a diocese considers that circumstances have arisen which make it desirable that a building which was licensed for public worship before 1 March 1993 should be subject to the faculty jurisdiction.

(2) The bishop may by order direct that the building is to be subject to the jurisdiction of the consistory court of the diocese during such period as the order may specify.

(3) Where an order under this section is made, the building and its furnishings and contents are, during the period specified in the order, to be subject to the jurisdiction of the consistory court of the diocese as though the building were a consecrated church.

(4) An order under this section does not—

(a) make unlawful any act done before the order was made, or

(b) require the grant of a faculty to confirm such an act.

(5) The bishop of a diocese may by order vary or revoke an order made under this section in relation to the diocese.

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

(6) The bishop of a diocese must send each order he or she makes under this section to the registrar of the diocese; and the registrar must file each order in the diocesan registry.

(7) The registrar is entitled to such fees as may be authorised by an order under section 86 for—

(a) filing an order under subsection (6);

(b) permitting a search for and inspection of an order filed under that subsection;

(c) providing a copy of an order filed under that subsection.

Commencement Information

I59 S. 59 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Procedure

60 Parties to faculty proceedings

(1) Proceedings for obtaining a faculty may be brought by—

(a) the archdeacon of the archdeaconry in which the parish concerned is situated,

(b) the minister and churchwardens of the parish concerned, or

(c) any other person appearing to the court to have a sufficient interest in the matter.

(2) For the purpose of proceedings for obtaining a faculty—

(a) the archdeacon is to be regarded as having an interest as such;

(b) a person whose name is entered on the church electoral roll of the parish concerned but who does not live in the parish is to be regarded as having an interest as if he or she were a parishioner of that parish.

(3) Subsection (4) applies if—

(a) the archdeaconry is vacant,

(b) the archdeacon is incapacitated by absence or illness, or

(c) in the opinion of the bishop, the archdeacon is for any other reason unable or unwilling to act or it would be inappropriate for the archdeacon to act.

(4) Such other person as the bishop appoints in writing (whether generally or for a particular case) may act in the place of the archdeacon for the purposes of this Measure or of any other enactment relating to the bringing of, or participation in, proceedings in court.

(5) If the archdeacon or a person appointed under subsection (4) brings or intervenes in proceedings for obtaining a faculty, the costs and expenses properly incurred by him or her or which he or she is ordered by the court to pay are to be paid by the diocesan board of finance for the diocese concerned.

(6) But a diocesan board of finance is not liable for any sum under subsection (5) unless the bringing of or intervention in the proceedings is approved by the bishop of the diocese in writing after consultation with the diocesan board of finance.

(7) An order in the proceedings that the costs or expenses of the archdeacon or appointed person are to be paid by another party may be enforced by the diocesan board of finance in the name of the archdeacon or appointed person.

(8) "Diocesan board of finance" has the same meaning as in the Endowments and Glebe Measure 1976 (see section 45 of that Measure).

Commencement Information
I60 S. 60 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Subject-matter of faculty

61 Vesting of privately owned parts of church

(1) The consistory court of a diocese may grant a faculty to vest a building forming part of, and physically connected with, a church in the diocese in the person in whom the church is vested.

(2) Proceedings for obtaining a faculty under this section may be brought only by—
- (a) the incumbent of the benefice to which the parish in which the church is situated belongs, or
- (b) the PCC for that parish.

(3) The court may grant a faculty under this section only if it is satisfied of the following four matters.

(4) The first matter is that—
- (a) the person in whom the church is vested is not the owner entitled to possession of the building, or
- (b) there is reasonable doubt as to who has a right of ownership or possession over the building.

(5) The second matter is that the incumbent or PCC, or some other person, has taken all reasonable steps since, or shortly before, the commencement of the proceedings to communicate with every person who may reasonably be supposed to have a right of ownership or possession (whether absolute or limited) over the building.

(6) The third matter is that—
- (a) despite the steps mentioned in subsection (5) being taken, there has been no communication with any such person as is mentioned in that subsection, or
- (b) every such person with whom communication has been made and who, on reasonable grounds, claims a right of ownership or possession over the building consents to the grant of the faculty.

(7) The fourth matter is that, during the seven years immediately before the commencement of the proceedings, no works of repair, redecoration or reconstruction have been carried out on the building by or on behalf of a person claiming title to the building that is adverse to the title of the person in whom the church is vested.

(8) In proceedings for obtaining a faculty under this section, the court may appoint a solicitor to represent all the persons, known or unknown, who—

(a) may have a right of ownership or possession over the building, but
(b) are not represented.

(9) The proper costs of a solicitor appointed under subsection (8) in the proceedings are to be paid by the person bringing the proceedings, unless the court orders otherwise.

(10) Where a faculty is granted under this section, the building specified in it is, by virtue of the faculty itself and without any further or other assurance or conveyance, to vest in the person in whom the church is vested as part of the church for all purposes; and any rights of property of any other person in the building terminate on the grant of the faculty.

(11) The reference in subsection (8) to a solicitor includes a reference to a body which—
(a) is recognised under section 9 of the Administration of Justice Act 1985, or
(b) holds a licence in force under Part 5 of the Legal Services Act 2007.

Commencement Information
I61 S. 61 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

62 Demolition of church

(1) The consistory court of a diocese may not grant a faculty for the demolition or partial demolition of a church otherwise than in accordance with subsection (2), (3) or (4).

(2) A court may grant a faculty for the demolition or partial demolition of a church if—
(a) the court is satisfied that another church or part of a church will be erected on the site or curtilage of the church or part in question, or on part of the site or curtilage, to take the place of the church or part, and
(b) the person bringing the proceedings has obtained the written consent of the bishop of the diocese.

(3) A court may grant a faculty for the partial demolition of a church if—
(a) the court is satisfied that the part of the church left standing will be used for public worship according to the rites and ceremonies of the Church of England for a substantial period after the demolition, and
(b) the person bringing the proceedings has obtained the written consent of the bishop of the diocese.

(4) A court may grant a faculty for the partial demolition of a church if it is satisfied that the demolition is necessary for the purposes of the repair or alteration of the church or the reconstruction of the part to be demolished.

(5) A reference in this section to the partial demolition of a church—
(a) is a reference to removal of such part of the church as would, in the opinion of the court, significantly affect its external appearance, and
(b) does not include a reference to the destruction or removal of minor or ancillary structures forming part of the building.

Commencement Information
I62 S. 62 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

63 Emergency demolition of church

(1) The chancellor of a diocese may by an instrument in writing signed by him or her authorise the demolition of the whole or part of a church in the diocese if the chancellor is satisfied that—

(a) the demolition is urgently necessary in the interests of health or safety or for the preservation of the church,

(b) it is not practicable to secure health or safety or (as the case may be) the preservation of the church by works of repair or works for affording temporary support or shelter, and

(c) the works to be carried out are limited to the minimum measures immediately necessary.

(2) An instrument under this section may require the person to whom it is issued (subject to the person obtaining any faculty required) to carry out such works for the restoration of the church following its demolition or partial demolition as the instrument may specify.

(3) In the case of partial demolition of a church which is a listed building or is in a conservation area, an instrument under this section must require the person to whom it is issued, as soon as practicable after the works have been carried out, to give the local planning authority notice in writing describing the works.

(4) Where the chancellor of a diocese issues an instrument under this section, he or she must send a copy of the instrument to—

(a) the Church Buildings Council, and

(b) the local planning authority.

(5) "Listed building" and "conservation area" each have the same meaning as in the Planning (Listed Buildings and Conservation Areas) Act 1990 (see section 91 of that Act); and "local planning authority", in relation to an area, means the body exercising the functions of the local planning authority under section 8 of that Act in that area.

(6) The power conferred by this section does not affect any power of a chancellor which was exercisable under a rule of law on 1 March 1993 and is still exercisable on the commencement of this section.

Commencement Information

I63 S. 63 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

64 Erection of building on disused burial ground

(1) The consistory court of a diocese may, in spite of section 3 of the Disused Burial Grounds Act 1884 (which prohibits the erection of a building on a disused burial ground except for the purpose of enlarging a place of worship), grant a faculty permitting the erection of a building on a disused burial ground in the diocese otherwise than for the purpose specified by that section, if either of the following conditions is satisfied.

(2) The first condition is that no interments have taken place in the land on which the building is to stand during the period of 50 years preceding the date of the petition for the faculty.

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

(3) The second condition is that—

(a) no personal representative or relative of a person whose remains have been interred in the land during that period has objected to the grant of the faculty, or

(b) any such objection has been withdrawn.

(4) The power conferred by this section does not affect any other power which the court has to authorise the erection of a building on a burial ground.

[[F24](5) Relative", in relation to a person, means—

(a) a spouse or civil partner, parent or grandparent or child or grandchild of the person, or

(b) a person who is, or is the child of, a brother, sister, uncle or aunt of the person.

(6) The reference in subsection (5)(a) to a person's spouse includes a reference to a spouse of the same sex as that person.**]**

Textual Amendments

F24 S. 64(5)(6) inserted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 6(11)**, 16(3); S.I. 2020/835, art. 2

Commencement Information

I64 S. 64 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

65 Exclusive right to burial places

(1) Where an exclusive right to a burial place was granted or acquired before 15 April 1964 (the day on which the Faculty Jurisdiction Measure 1964 was passed), the right is to cease on 15 April 2064 or, if the terms of the grant or acquisition provide for the right to cease before that date, in accordance with the provision made by those terms, unless—

(a) it has been enlarged or continued by a faculty granted on or after 15 April 1964, but before the commencement of this section, in accordance with section 8 of the Faculty Jurisdiction Measure 1964, or

(b) it is enlarged or continued by a faculty granted after the commencement of this section.

(2) The reference in subsection (1) to an exclusive right to a burial place acquired before 15 April 1964 includes a reference to an exclusive right of burial reserved before that date under section 9 of the Consecration of Churchyards Act 1867.

(3) Where an exclusive right to a burial place was granted by a faculty granted on or after 15 April 1964 but before the commencement of this section, the right is to cease at the end of the period of 100 years beginning with the date of the faculty or, if the faculty provides for the right to cease before the end of that period, in accordance with the provision made by the faculty, unless—

(a) it has been enlarged or continued by a faculty granted before the commencement of this section in accordance with section 8 of the Faculty Jurisdiction Measure 1964, or

(b) it is enlarged or continued by a faculty granted after the commencement of this section.

(4) An exclusive right to a burial place may not be granted or acquired after the commencement of this section otherwise than by—
  (a) the grant of a faculty, or
  (b) the reservation of an exclusive right of burial under section 90(2).

(5) The period for which an exclusive right to a burial place may be granted, enlarged or continued by a faculty granted after the commencement of this section must not exceed 100 years beginning with the date of the faculty.

(6) A reference in this section to an exclusive right to a burial place is a reference to a right, whether absolute or limited, to the exclusive use of a particular part of a churchyard, burial ground or other consecrated land for the purposes of sepulture.

(7) This section does not apply to a burial ground or cemetery provided under the Local Government Act 1972.

Commencement Information
I65 S. 65 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

66 Monuments

(1) The consistory court of a diocese may grant a faculty for the moving, demolition, alteration or carrying out of other work to a monument erected in or on, or on the curtilage of, a church or other consecrated building or on consecrated ground, even if the owner of the monument—
  (a) withholds consent to the faculty, or
  (b) cannot be found after reasonable efforts to find him or her have been made.

(2) The monuments in relation to which a power to grant a faculty under this section is exercisable include a monument erected under or affected by a faculty, whenever granted.

(3) If the court is satisfied that the matter is of such urgency that it would not be reasonable to require the petitioner to seek the consent of the owner of the monument or to take the steps referred to in subsection (1)(b), it may grant the faculty (even though the consent has not been obtained and those steps have not been taken).

(4) "Monument" includes a tomb, gravestone or other memorial, and any kerb or setting forming part of it; and a reference to a monument includes a reference to a monument erected after the passing of this Measure.

(5) "Owner", in relation to a monument, means—
  (a) the person who erected the monument, or
  (b) after that person's death, the heir or heirs at law of the person or persons in whose memory the monument was erected.

(6) The reference in subsection (1) to consecrated ground does not include a reference to a consecrated burial ground to which section 11 of the Open Spaces Act 1906 applies.

(7) In proceedings to which section 3 of the Faculty Jurisdiction Measure 1964 applies which were pending on 1 January 2015 (the date on which the substitution of subsection (3) of that section came into force) and which are still pending on the

commencement of this section, the court may exercise the power under subsection (3) of this section.

(8) But subsection (7) of this section does not prevent the continuing application to such proceedings of subsection (3) of that section as originally enacted (which prevents the grant of a faculty affecting a monument if the owner does not consent).

Commencement Information
I66 S. 66 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

67 Sale of books in a parochial library

(1) A faculty may be granted for the sale of a book remaining in or belonging to a parochial library.

(2) The proceeds from the sale of a book under a faculty under this section must be applied for such ecclesiastical purposes of the parish in which the library is situated as may be specified in the faculty.

(3) Before granting a faculty under this section, the consistory court of the diocese concerned must seek advice from the advisory committee.

(4) Any question as to whether a particular library is, or is not, a parochial library is to be determined by the Charity Commission.

Commencement Information
I67 S. 67 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Powers of court

68 Conditions etc. on grant of faculty

(1) The conditions subject to which a faculty may be granted include in particular a condition requiring the work authorised or ordered by the faculty (or part of that work) to be carried out under the supervision of the archdeacon or another person nominated by the court granting the faculty.

(2) In the case of a faculty authorising the disposal of an article, the conditions subject to which the faculty may be granted include in particular a condition requiring a specified period to elapse before the disposal takes place.

(3) Where the court grants a faculty to a person other than an archdeacon and considers that the work authorised or ordered by the faculty should be carried out (whether or not by that person), it may also order—

(a) that, in default of that person carrying out the work, a faculty is to be granted to the archdeacon authorising him or her to carry out the work, and

(b) that, in that event, the expenses incurred by the archdeacon in carrying out the work are to be paid by that person.

Commencement Information
I68 S. 68 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

69 Costs orders against person responsible for act or default

(1) This section applies if, in proceedings brought by a person for obtaining a faculty, it appears to the court that another person who is party to the proceedings was responsible wholly or partly for an act or default in consequence of which the proceedings were brought.

(2) The court may order the whole or part of the costs and expenses of or consequent on the proceedings to be paid by the person responsible.

(3) The costs and expenses which may be included in an order under this section include costs and expenses incurred in carrying out any work authorised or ordered by the faculty, so far as such costs and expenses have been occasioned by the act or default concerned.

(4) The court may make an order under this section only if it is satisfied that the proceedings were brought no later than six years after the act or default was committed.

Commencement Information
I69 S. 69 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

70 Special citation to add party to proceedings

(1) In proceedings for obtaining a faculty, the court may issue a special citation to add as a party to the proceedings a person alleged to be responsible wholly or in part for an act or default in consequence of which the proceedings were brought, even if the person lives outside the diocese concerned.

(2) A special citation issued by the court under this section may require the person to whom it is issued to attend the court at the time and place specified in the citation.

(3) The court may issue a citation under this section only if it is satisfied that the proceedings were brought no later than six years after the act or default was committed.

(4) A failure to comply without a reasonable excuse with a requirement of a special citation issued by the court under this section is a contempt of that court.

Commencement Information
I70 S. 70 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

71 Injunction

(1) This section applies where at any time, whether before or after proceedings for obtaining a faculty have been brought, it appears to the consistory court of a diocese that a person intends—

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

(a) to commit or continue to commit a relevant act, or
(b) to cause or permit the commission or continuance of a relevant act.

(2) A relevant act is an act in relation to a church or churchyard in the diocese or an article appertaining to a church in the diocese which would be unlawful under ecclesiastical law.

(3) The court may issue an injunction restraining the person from committing or continuing to commit, or from causing or permitting the commission or continuance of, the relevant act.

(4) An injunction under this section may be issued—
(a) on an application by the archdeacon of the archdeaconry concerned,
(b) on an application by any other person appearing to the court to have sufficient interest in the matter, or
(c) on the court's own motion.

(5) A failure to comply without a reasonable excuse with an injunction issued by the court under this section is a contempt of that court.

Commencement Information
I71 S. 71 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

72 Restoration order

(1) This section applies where at any time, whether before or after proceedings for obtaining a faculty have been brought, it appears to the consistory court of a diocese that a person—
(a) has committed a relevant act, or
(b) has caused or permitted the commission of a relevant act.

(2) A relevant act is an act in relation to a church or churchyard in the diocese or an article appertaining to a church in the diocese which is unlawful under ecclesiastical law.

(3) The court may make an order (a "restoration order") requiring the person to take such steps as the court considers necessary, within such time as the court specifies, for the purpose of restoring the position so far as possible to what it was immediately before the act was committed.

(4) A restoration order may be made—
(a) on an application by the archdeacon of the archdeaconry concerned,
(b) on an application by any other person appearing to the court to have sufficient interest in the matter, or
(c) on the court's own motion.

(5) The court may make a restoration order only if it is satisfied that the proceedings for the order were brought no later than six years after the relevant act was committed.

(6) A failure to comply without a reasonable excuse with a restoration order made by the court under this section is a contempt of that court.

Commencement Information
I72 S. 72 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

73 Sections 69, 70 and 72: deliberate concealment of facts

(1) This section applies where, in proceedings brought by an archdeacon for obtaining a faculty or for a restoration order, a fact relevant to the bringing of the proceedings has been deliberately concealed from him or her.

(2) The period of six years referred to in each of sections 69(4), 70(3) and 72(5) does not begin to run until the time when the archdeacon discovered the concealment or could with reasonable diligence have discovered it.

(3) A deliberate commission of a breach of duty in circumstances in which it is unlikely to be discovered for some time amounts for the purposes of this section to deliberate concealment of the facts involved in the breach of duty.

Commencement Information
I73 S. 73 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Role of archdeacon

74 Exercise of faculty jurisdiction

(1) The archdeacon of every archdeaconry in a diocese is to exercise the jurisdiction of the consistory court of the diocese in such faculty matters relating to the archdeaconry, to such extent and in such manner as rules may specify.

(2) An archdeacon who exercises jurisdiction under subsection (1) may grant a faculty in any cause of faculty to be considered by him or her which is unopposed.

(3) A faculty granted by an archdeacon under subsection (2) has effect as if it had been granted by the chancellor of the diocese.

(4) Subsection (5) applies where, in a cause of faculty to be considered by an archdeacon—
  (a) he or she declines to grant a faculty,
  (b) he or she considers that the matter should be dealt with as a matter of urgency without reference to the advisory committee for advice under section 79(2), or
  (c) the grant of the faculty is opposed.

(5) The archdeacon must cause the matter to be referred to the chancellor of the diocese for him or her to deal with it.

(6) This section does not give an archdeacon power—
  (a) to order a person to pay costs or expenses,
  (b) to issue an injunction or make a restoration order, or
  (c) to grant an interim faculty pending the final determination of the matter.

(7) Where an archdeacon considers that a question arises as to the payment of costs or expenses, the issue of an injunction, the making of a restoration order or the grant of an interim faculty, the archdeacon must cause the matter to be referred to the chancellor of the diocese for him or her to deal with it.

Commencement Information
I74 S. 74 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

75 Grant of licence for temporary minor re-ordering

(1) The archdeacon of every archdeaconry may grant a licence authorising, without a faculty, the minor re-ordering of a church in his or her archdeaconry for a temporary period to such extent and in such manner as rules may specify.

(2) The archdeacon may amend or revoke a licence granted under this section in relation to the archdeaconry.

Commencement Information
I75 S. 75 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

76 Convening meeting in a case of default

(1) Where it appears to an archdeacon that something has been done in a parish in the archdeaconry which ought not to have been done without a faculty, the archdeacon may convene an extraordinary meeting of the PCC, or an extraordinary parochial church meeting, in order to discuss the matter.

(2) The archdeacon must either take the chair or appoint a person to chair the meeting.

(3) The chair of the meeting, unless otherwise entitled to attend the meeting, is not entitled to vote on any resolution before the meeting.

Commencement Information
I76 S. 76 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Cases where faculty not required

77 Power to specify matters in rules

(1) Rules may specify matters within the jurisdiction of a consistory court which may be undertaken without a faculty; but this is subject to subsection (7).

(2) The rules may specify conditions which may be imposed on the undertaking of such a matter; and different conditions may be specified in relation to different matters.

(3) The conditions may in particular include—

(a) a condition that the archdeacon is consulted on the proposal to undertake the matter and that it may be undertaken without a faculty only if the archdeacon gives notice in writing that it may be undertaken without a faculty, and

(b) a condition that, if the archdeacon gives notice as mentioned in paragraph (a), the archdeacon may make the undertaking of the matter subject to such additional conditions as he or she may specify in the notice.

(4) The rules may require that, where the archdeacon is consulted as mentioned in subsection (3)(a), he or she must seek the advice of the advisory committee or such of its members or officers as he or she thinks fit before deciding whether to give notice as mentioned in subsection (3)(a).

(5) Where the archdeacon decides not to give notice as mentioned in subsection (3)(a)—

(a) the decision must be recorded in writing, and

(b) the matter in question may not be undertaken without a faculty.

(6) Where the archdeacon is the incumbent or priest in charge of the benefice in which it is proposed to undertake the matter, references in subsections (3) to (5) to the archdeacon are to be read as references to the chancellor.

(7) Subsection (1) does not apply to the following matters—

(a) works which involve alteration to or the extension of a listed building to such an extent as would be likely to affect its character as a building of special architectural or historic interest;

(b) works which are likely to affect the archaeological importance of a building or any archaeological remains within a building or its curtilage;

(c) works for all or part of which scheduled monument consent is required under the Ancient Monuments and Archaeological Areas Act 1979;

(d) works which involve the extension, demolition or partial demolition of a building or the erection of a new building;

(e) a matter which gives rise to a question of law or doctrine, ritual or ceremonial or which would, if undertaken, affect a person's legal rights;

(f) the exhumation or other disturbance of human remains;

(g) the reservation of a grave space;

(h) the sale or other disposal of an article of architectural, archaeological, artistic or historic interest;

(i) the sale of a book remaining in or belonging to a parochial library;

(j) the introduction of an aumbry or another receptacle used for the reservation of the sacrament of Holy Communion;

(k) the introduction of a monument, or the carrying out of work to a monument erected in or on, or on the curtilage of, a church or other consecrated building or on consecrated ground.

(8) "Listed building" has the same meaning as in the Planning (Listed Buildings and Conservation Areas) Act 1990 (see section 1(5) of that Act).

(9) The reference in subsection (7)(e) to a matter affecting a person's legal rights does not include a reference to the grant of a licence for the grazing of a churchyard by livestock.

(10) Any question as to whether a particular matter is, or is not, a matter that is specified by virtue of subsection (1) is to be determined by the consistory court of the diocese concerned.

(11) Section 62(5) (which defines references to partial demolition in relation to a church) applies for the purposes of this section in relation to any building.

Commencement Information

I77 S. 77 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

78 Power of chancellor to specify matters

(1) The chancellor of a diocese may by order provide that a matter specified in the order may be undertaken without a faculty (in addition to the matters that are specified in rules by virtue of section 77(1)).

(2) An order under subsection (1)—

(a) may specify a matter only if it could be specified in rules by virtue of section 77(1) **[**[F25](but see subsection (2A))**]**;

(b) may specify such conditions as may be specified in rules by virtue of section 77(2);

(c) may apply to the whole or a specified part of the diocese.

[[F26](2A) The reference in subsection (2)(a) to section 77(1) is to be read as a reference to section 77(1) as it has effect subject only to section 77(7)(a) to (j); accordingly, an order under this section may specify a matter referred to in section 77(7)(k) (introduction of monument etc.).**]**

(3) Where the chancellor of a diocese considers that there are special circumstances affecting a parish or church, churchyard or other building or place in the diocese which justify doing so, he or she may by order provide that a matter specified in the order may not be undertaken without a faculty even though it is a matter that is specified by virtue of section 77(1).

(4) The chancellor of a diocese must seek the advice of the advisory committee before making an order under subsection (1) or (3), unless he or she is satisfied that the matter is sufficiently urgent to justify making an order without obtaining the committee's advice.

(5) The chancellor of a diocese must send each order he or she makes under subsection (1) or (3) to the registrar of the diocese; and the registrar must file each order in the diocesan registry.

(6) Where an order is made under subsection (3), the registrar must serve a copy of the order on—

(a) the minister and churchwardens of every parish affected by the order,

(b) the archdeacon of every archdeaconry in which a parish affected by the order is situated, and

(c) the secretary of the advisory committee.

(7) Any churchwardens on whom a copy of an order is served under subsection (6) must—

(a) keep it with the inventory maintained under section 49(1), and

(b) insert a copy of it in the log-book maintained under section 49(2).

(8) The chancellor of a diocese may by order vary or revoke an order made under subsection (1) or (3) in relation to the diocese; and a reference in this section to an order under subsection (1) or (3) includes a reference to an order varying or revoking the order.

Textual Amendments

F25 Words in s. 78(2)(a) inserted (17.5.2024) by Church of England (Miscellaneous Provisions) Measure 2024 (No. 1), **ss. 13(6)**, 22(4); S.I. 2024/631, art. 2

F26 S. 78(2A) inserted (17.5.2024) by Church of England (Miscellaneous Provisions) Measure 2024 (No. 1), **ss. 13(5)**, 22(4); S.I. 2024/631, art. 2

Commencement Information

I78 S. 78 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Supplementary

79 Consultation with advisory committee

(1) The chancellor of a diocese must seek the advice of the advisory committee before making a final determination in proceedings for obtaining a faculty, issuing a permanent injunction under section 71 or making a restoration order unless—

(a) the action proposed relates exclusively to exhumation or the reservation of a grave space, or

(b) the chancellor is satisfied that the matter is sufficiently urgent to justify granting a faculty, issuing an injunction or making a restoration order without obtaining the committee's advice.

(2) An archdeacon must seek the advice of the advisory committee before making a final determination in proceedings for obtaining a faculty, unless the action proposed relates exclusively to exhumation or the reservation of a grave space.

(3) In each diocese, the secretary to the advisory committee—

(a) must compile and maintain a register of all petitions for a faculty referred to the committee for advice under this section, and

(b) must ensure that the register is available for inspection by the public by prior appointment at such place in the diocese as the bishop of the diocese may designate.

(4) Rules may specify further circumstances in which, or further matters in respect of which, the duty imposed on a chancellor by subsection (1) does not apply.

Commencement Information

I79 S. 79 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

Interpretation

80 Interpretation of Part 4

(1) In this Part, unless otherwise indicated—

"advisory committee" means—

(a) in relation to a diocese, the Diocesan Advisory Committee of that diocese;

(b) in relation to an archdeaconry, the Diocesan Advisory Committee of the diocese in which the archdeaconry is situated;

"article" includes anything affixed to land or a building, and a reference to an article includes a reference to part of an article;

"building" includes a structure or erection, and a reference to a building includes a reference to part of a building;

"church" includes a building which is licensed for public worship according to the rites and ceremonies of the Church of England and is subject to the faculty jurisdiction;

"land" includes buildings but, subject to that, the definition of that word in Schedule 1 to the Interpretation Act 1978 does not apply;

"minister", in the case of a parish in which a special cure of souls has been assigned to a vicar in a team ministry by a scheme under the Mission and Pastoral Measure 2011 or by licence from the bishop, means that vicar;

"minister", in the case of a parish not of that description, means—

(a) the incumbent of the benefice comprising the parish, or

(b) a curate licensed to the charge of the parish or a minister acting as priest-in-charge of the parish, where rights of presentation are suspended;

"parish" means—

(a) an ecclesiastical parish, or

(b) a district which is constituted as a conventional district for the cure of souls;

"parish church" does not include a parish church which is a cathedral to which the Care of Cathedrals Measure 2011 applies;

"restoration order" has the meaning given in section 72.

(2) A notice, order or other document required by this Part to be served on or sent or given to a person may be served, sent or given by post, by delivering it to the person, or by leaving it at the person's proper address; and for that purpose and the purposes of section 7 of the Interpretation Act 1978, a person's proper address is that person's last known address.

(3) Nothing in this Part prejudices or affects the provisions of—

(a) the Ancient Monuments and Archaeological Areas Act 1979,

(b) the Town and Country Planning Act 1990,

(c) the Planning (Listed Buildings and Conservation Areas) Act 1990, or

(d) an instrument made under an Act referred to in paragraph (a), (b) or (c).

Commencement Information

I80 S. 80 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

PART 5

MISCELLANEOUS

Rules

81 Rule Committee: continuation and membership

(1) There is to continue to be a body known as the Rule Committee.

(2) The members of the Rule Committee are—

(a) one diocesan bishop nominated by the Archbishops of Canterbury and York,

(b) the Dean of the Arches and Auditor,

(c) one archdeacon nominated by the Archbishops of Canterbury and York,

(d) two chancellors nominated by the Archbishops of Canterbury and York,

(e) two diocesan registrars nominated by the Archbishops of Canterbury and York,

(f) two persons nominated by the Standing Committee of the House of Laity of the General Synod from among the members of that House, and

(g) for each of the purposes referred to in subsections (3) to (7), the persons specified as members for that purpose.

(3) For the purpose of making rules relating to proceedings in the Court of Ecclesiastical Causes Reserved or a Commission of Review, the members of the Committee also include one person nominated by the Lord Chancellor who holds or has held high judicial office.

(4) For the purpose of making rules relating to cathedral churches, the members of the Committee also include—

(a) one person nominated by the Appointments Committee of the Church of England who is a member of the chapter of a cathedral church,

(b) three persons nominated by the Cathedrals Fabric Commission for England from among the members of that Commission, who have special knowledge of the conservation of cathedrals, and

(c) three persons nominated by the Association of English Cathedrals.

(5) For the purpose of making rules relating to disciplinary proceedings, the members of the Committee also include—

(a) one diocesan bishop nominated by the Archbishops of Canterbury and York (in addition to the one nominated under subsection (2)(a)),

(b) the Prolocutor of the Lower House of the Convocation of Canterbury or a member of that House nominated by the Prolocutor, and

(c) the Prolocutor of the Lower House of the Convocation of York or a member of that House nominated by the Prolocutor.

(6) For the purpose of making rules relating to the practice and procedure of consistory courts in their exercise of the faculty jurisdiction, including the exercise of functions under sections 69 to 71 (orders in case of default etc.), the members of the Committee also include three persons nominated by the Church Buildings Council, of whom—

(a) one must hold office as chair of a Diocesan Advisory Committee, and

(b) one must hold office as secretary to a Diocesan Advisory Committee.

(7) For the purpose of making rules under each of the following provisions, the members of the Committee also include the three persons nominated for the purposes of subsection (6)—

(a) section 53(7) (order by archdeacon to remove article to safety);

(b) section 74(1) (archdeacon's jurisdiction in certain faculty matters);

(c) section 75(1) (archdeacon's power to grant licence for temporary minor re-ordering);

(d) section 77(1), (2) or (4) (matters which may be undertaken without a faculty, conditions on undertaking such matters etc.);

(e) section 79(4) (circumstances where chancellor not required to consult advisory committee);

(f) section 83(3), (4) or (5) (deposit of article for safekeeping; records of location of burials etc; safekeeping documents of historic interest).

(8) In subsection (4)(c), the reference to the Association of English Cathedrals is a reference to the group of persons commonly known by that name (being the representative body for English Anglican Cathedrals), regardless of the form in which the group is for the time being constituted.

(9) In subsection (5), "disciplinary proceedings" means—

(a) proceedings in respect of an offence of the kind referred to in section 14 of the Ecclesiastical Jurisdiction Measure 1963,

(b) disciplinary proceedings under the Clergy Discipline Measure 2003, or

(c) proceedings under any of the provisions referred to in section 4(1) of the Safeguarding and Clergy Discipline Measure 2016 (appeal against suspension).

Commencement Information

I81 S. 81 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

82 Rule Committee: procedure etc.

(1) The chair of the Rule Committee is—

(a) the Dean of the Arches and Auditor, or

(b) if the Dean declines or is unable to act as such, such other member of the Committee as the Dean nominates after consultation with the Archbishops of Canterbury and York.

(2) The quorum of the Committee is five; but a person who is a member for a particular purpose referred to in section 81(3) to (7) may not be included in a quorum for any other purpose.

(3) Subject to that, the Committee may regulate its own procedure.

(4) The validity of anything done by the Committee is not affected by a vacancy in its membership.

Commencement Information

I82 S. 82 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

83 Rule Committee: powers to make rules

(1) The Rule Committee may make rules for carrying into effect the relevant provisions; and for this purpose "relevant provision" means a provision of any of the following—

(a) Parts 1, 3 and 4 and this Part of this Measure (subject to subsection (6));

(b) the Ecclesiastical Jurisdiction Measure 1963;

(c) the Clergy Discipline Measure 2003;

(d) the Care of Cathedrals Measure 2011;

(e) the provisions referred to in section 4(1) of the Safeguarding and Clergy Discipline Measure 2016 (appeal against suspension).

(2) Rules under subsection (1) may in particular (so far as the following matters are not regulated by a relevant provision or by rules under section 4 of the Church of England (Legal Aid) Measure 1994) make provision for—

(a) regulating the procedure and practice (including the mode and burden of proof and admissibility of evidence) of an ecclesiastical court;

(b) the appointment and duties of officers of an ecclesiastical court;

(c) the procedure and practice where an archdeacon has jurisdiction in faculty matters under section 74;

(d) the procedure and practice where complaints are referred to a registrar under section 11 of the Clergy Discipline Measure 2003;

(e) the time within which an act required or permitted by a relevant provision is to be done;

(f) matters relating to the appointment of authorised complainants and prosecutors in connection with proceedings or contemplated proceedings under a relevant provision;

(g) the forms of complaint for bringing proceedings under a relevant provision and of answers to be made to complaints;

(h) any other form or notice required in connection with a relevant provision;

(i) the mode of effecting service of a complaint, article or other document including provision for substituted service;

(j) the fixing of the time and place of a hearing or trial and the notification of the parties;

(k) the passing of censures and the forms of certificates of findings;

(l) matters relating to costs, fees and expenses in relation to proceedings under a relevant provision;

(m) enabling evidence to be obtained of compliance with a relevant provision;

(n) a matter which may be specified in rules in accordance with a relevant provision.

(3) The Rule Committee may also make rules containing provision for enabling a PCC, after consultation with the advisory committee of the diocese concerned, to deposit (without a faculty) a movable article appertaining to a church in the parish for safekeeping in a place approved for the purpose by specified persons, subject to such

requirements, terms and conditions as may be specified or as may be determined by the specified persons.

(4) The Rule Committee may also make rules containing provision for requiring a PCC to keep records of—

(a) the location of burials carried out in churchyards in the parish, and

(b) reserved grave-spaces in relation to which a faculty has been granted.

(5) The Rule Committee may also make rules containing provision for the safekeeping, care, inspection and preservation of books and other documents which, in the opinion of a specified person, are of historic interest to the Church of England; and the provision which may be made includes provision for the appointment of persons with duties in that respect.

(6) In subsection (1)(a), the reference to provisions of this Measure does not include a reference to—

(a) section 22(7) to (10) (certain vacancies in see),

(b) sections 45 to 47 (inspections),

(c) section 54 (parochial libraries),

(d) sections 84 to 87 (fees), or

(e) sections 88 to 91 (burials).

(7) In subsection (2)(a) and (b), "ecclesiastical court" means a court, disciplinary tribunal, commission or committee provided for in a provision referred to in subsection (1)(a) to (d); but subsection (2)(a) and (b) does not apply to a court of appellate jurisdiction in so far as rules made by the Judicial Committee of the Privy Council provide for the matters in question in the case of that court.

(8) In subsection (5), the reference to books and other documents does not include a reference to register books or records within the meaning of section 25 of the Parochial Registers and Records Measure 1978.

(9) Rules under this section—

(a) must be laid before the General Synod, and

(b) may not come into force unless approved by the Synod, whether with or without amendment.

(10) If the Business Committee of the General Synod decides that the Synod does not need to debate rules under this section, the rules are deemed to be approved by the Synod without amendment unless notice is given by a member of the Synod in accordance with its Standing Orders that—

(a) the member wishes the rules to be debated, or

(b) the member wishes to move an amendment to the rules.

Commencement Information

I83 S. 83 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Fees

84 Fees Advisory Commission: continuation and membership

(1) There is to continue to be a body known as the Fees Advisory Commission.

(2) The members of the Commission are—

[F27(a) one person who is a diocesan or suffragan bishop nominated by the House of Bishops (regardless of whether that person is a member of that House);]

(b) one person who is a Church Commissioner or an officer of the Church Commissioners nominated by them;

(c) one person who is the chair of a diocesan board of finance nominated by representatives of dioceses (see subsection (4));

(d) one person who is the registrar of a diocese nominated by the Ecclesiastical Law Association (see subsection (5));

(e) one person who is the chancellor of a diocese nominated by the Ecclesiastical Judges Association (see subsection (6));

(f) either the registrar of the province of Canterbury or the registrar of the province of York, whichever of them is nominated by the two registrars acting jointly;

(g) three persons appointed by the Appointments Committee of the Church of England (see subsection (7)).

(3) The chair of the Commission is the member chosen by the Commission from among the members appointed under subsection (2)(g).

(4) In subsection (2)(c), "representatives of dioceses" means persons—

(a) who are officers or members of a diocesan board of finance or are members of the House of Clergy or House of Laity of the General Synod elected for a diocese, and

(b) who are chosen under arrangements approved by the Archbishops of Canterbury and York acting jointly to represent dioceses in consultations on financial matters.

(5) In subsection (2)(d), the reference to the Ecclesiastical Law Association is a reference to the group of persons commonly known by that name (being a group which includes lawyers involved in the work of the Church of England) regardless of the form in which the group is for the time being constituted.

(6) In subsection (2)(e), the reference to the Ecclesiastical Judges Association is a reference to the group of persons commonly known by that name (being a group which includes the chancellor of each diocese and the Dean of the Arches and Auditor), regardless of the form in which the group is for the time being constituted.

(7) A person may not be appointed under subsection (2)(g) if he or she is eligible for membership under subsection (2)(a) to (f); and at least one, but no more than two, of the three persons appointed under subsection (2)(g) must be a member of the House of Clergy or House of Laity of the General Synod.

Textual Amendments

F27 S. 84(2)(a) substituted (1.3.2019) by Church of England (Miscellaneous Provisions) Measure 2018 (No. 7), **ss. 8(3)**, 17(3); S.I. 2019/67, art. 2(1)(g)

Commencement Information

I84 S. 84 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

85 Fees Advisory Commission: term of office and procedure

(1) As soon as practicable after each ordinary election of the General Synod, new members of the Fees Advisory Commission are to be nominated or appointed in accordance with section 84.

(2) A member of the Commission holds office until a new member is nominated or appointed to replace him or her under subsection (1).

(3) If a member of the Commission dies or resigns from office, the persons responsible for nominating or appointing the member under section 84 must, as soon as practicable, nominate or appoint in accordance with that section a person to fill the vacancy.

(4) A person nominated or appointed under subsection (3) holds office only for the unexpired portion of the term of office of the person whose place is being filled.

(5) A member of the Commission (including one nominated or appointed under subsection (3)) is eligible for renomination or reappointment.

[[F28](5A) If the chair of the Commission considers that it has business which can properly be conducted by correspondence, the chair may arrange for written proposals requiring the Commission's approval to be circulated to members.

(5B) Unless objection is received from members in such numbers and within such period from the date on which they were sent as the Commission may specify, the proposals are to be treated on the expiry of that period as approved by the Commission as if they had been approved at a duly convened meeting.

(5C) The Commission may delegate to the chair the approval of any matter which requires decision and which, because of its urgency, cannot be dealt with at a meeting of the Commission or by correspondence as mentioned in subsection (5A).

(5D) A delegation under subsection (5C)—

(a) may be general or specific, and

(b) is subject to such conditions as the Commission may from time to time impose.**]**

(6) The quorum of the Commission is three, of whom—

(a) one must be a member under section 84(2)(a), (b) or (c),

(b) one must be a member under section 84(2)(d), (e) or (f), and

(c) one must be a member under section 84(2)(g).

(7) Subject to that, the Commission may regulate its own procedure.

(8) The validity of anything done by the Commission is not affected by a vacancy in its membership.

Textual Amendments

F28 S. 85(5A)-(5D) inserted (1.3.2019) by Church of England (Miscellaneous Provisions) Measure 2018 (No. 7), **ss. 8(4)**, 17(3); S.I. 2019/67, art. 2(1)(g)

Commencement Information
I85 S. 85 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

86 Fees orders

(1) The Fees Advisory Commission must inform itself of the duties of the offices of ecclesiastical judges and the duties of the offices of legal officers and may make recommendations as to the annual fees to be paid to them in relation to such of those duties as it specifies.

(2) The Commission may make recommendations as to the fees to be paid to such persons as it specifies in relation to—
- (a) such duties carried out by ecclesiastical judges as it specifies;
- (b) such duties carried out by legal officers as it specifies;
- (c) such functions carried out by advisory committees or archdeacons in connection with relevant faculty proceedings as it specifies.

(3) The Commission may make an order to give effect to its recommendations under subsection (1) or (2).

[[F29](3A) An order under this section may contain provision as to—
- (a) exemptions from or reductions in fees;
- (b) remission of fees in whole or in part.**]**

(4) An order under this section may contain such incidental provision as the Commission considers necessary or desirable; and the provision which may be made includes, in particular, provision relating to payment for reasonable expenses incurred by ecclesiastical judges or legal officers—
- (a) on the holding of court hearings, or
- (b) on travel, subsistence and accommodation.

[[F30](4A) Any order under this section which includes provision under subsection (3A) must also include incidental provision under subsection (4) to require the diocesan board of finance to pay the amounts which would be payable were it not for the exemption, reduction or remission provided for by the order.**]**

[[F31]**[**[F32](4B)**]** An order under this section may provide for a fee, or a matter relating to the payment of a fee, to be determined—
- (a) by a court, ecclesiastical judge, legal officer or other person;
- (b) by reference to provision made under an Act of Parliament.**]**

(5) A fee payable under an order under this section is recoverable as a debt.

(6) Where an archbishop or bishop has paid a sum under an order under this section, and the liability to pay was imposed on the archbishop or bishop in that capacity, the Church Commissioners must reimburse the sum to the archbishop or bishop.

(7) "Ecclesiastical judge" means—
- (a) the Dean of the Arches and Auditor,
- (b) the Vicar-General of either province,
- (c) the chancellor of a diocese,
- (d) the president of tribunals,

(e) the chair of a disciplinary tribunal for the purposes of the Clergy Discipline Measure 2003, or

(f) the deputy of a person specified in paragraphs (a) to (e).

(8) "Legal officer" means—

(a) the registrar of a province,

(b) the registrar of a diocese,

(c) the administrator of a cathedral,

(d) the registrar of tribunals for the purposes of the Clergy Discipline Measure 2003, or

(e) the deputy of a person specified in paragraph (a) or (b).

(9) "Relevant faculty proceedings" means proceedings, or proposed proceedings, for obtaining a faculty in the case of a building which is subject to the faculty jurisdiction as a result of its inclusion in the list under section 38, other than a building within subsection (2)(e) of that section (sharing agreements).

(10) The references in subsection (9) to a building are to be read with section 39(3) (inclusion of monuments, curtilages, structures etc.).

(11) An order under this section—

(a) must be laid before the General Synod, and

(b) may not come into force unless—

(i) in the case of an order giving effect to recommendations under subsection (1), it has been approved by the Synod, or

(ii) in the case of an order giving effect to recommendations under subsection (2), it has been approved by the Synod, whether with or without amendment.

(12) If the Business Committee of the General Synod decides that the Synod does not need to debate an order under this section giving effect to recommendations under subsection (1), the order is deemed to be approved by the Synod unless notice is given by a member of the Synod in accordance with its Standing Orders that the member wishes the order to be debated.

(13) If the Business Committee decides that the Synod does not need to debate an order under this section giving effect to recommendations under subsection (2), the order is deemed to be approved by the Synod without amendment unless notice is given by a member of the Synod in accordance with its Standing Orders that the member—

(a) wishes the order to be debated, or

(b) wishes to move an amendment to the order.

Textual Amendments

F29 S. 86(3A) inserted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 4(1)**, 16(3); S.I. 2020/835, art. 2

F30 S. 86(4A) inserted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 4(2)**, 16(3); S.I. 2020/835, art. 2

F31 S. 86(4A) inserted (retrospectively) by Church of England (Miscellaneous Provisions) Measure 2018 (No. 7), **ss. 8(5)(6)**, 17(2)(b)

F32 S. 86(4A) renumbered as s. 86(4B) (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 4(2)**, 16(3); S.I. 2020/835, art. 2

Commencement Information
I86 S. 86 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

87 Fees: power of chancellor

(1) Where a faculty is or has been granted for a relevant purpose, the chancellor of the diocese may determine the amount of the fees payable to the PCC or the diocesan board of finance.

(2) Each of the following is a relevant purpose—
- (a) the introduction of a monument in a church;
- (b) an additional inscription on a monument in a church;
- (c) the erection of a monument in a churchyard;
- (d) an additional inscription on a monument in a churchyard;
- (e) the reservation of a grave space;
- (f) the construction of a vault;
- (g) the burial of cremated remains in or under a church or in a closed churchyard.

(3) The reference in subsection (1) to a faculty is, where the relevant purpose is within subsection (2)(c), (d) or (g), a reference to a particular (as opposed to general) faculty.

(4) In this section—

"burial" and "monument" each have the same meaning as in Schedule A1 to the Ecclesiastical Fees Measure 1986;

"church" and "churchyard" each have the same meaning as in that Measure (see section 10 of that Measure).

(5) This section does not affect any power which exists apart from this section.

Commencement Information
I87 S. 87 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Burials and consecration

88 Burials in parish burial ground

(1) A person who, but for this subsection, would have no right of burial in the churchyard or other burial ground of a parish has that right if, at the date of the person's death, his or her name is entered on the church electoral roll of the parish.

(2) A person who has a right of burial in the churchyard or other burial ground of a parish has a right to have his or her cremated remains buried there.

(3) But subsection (2) does not give a person a right to have his or her cremated remains buried in a churchyard or burial ground in which burials have been discontinued by an Order in Council under the Burial Act 1853 or 1855 except—
- (a) in accordance with a faculty authorising the burial, or
- (b) in an area which has been set aside by a faculty for the burial of cremated remains generally.

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

(4) A person who does not have a right of burial in the churchyard or other burial ground of a parish may not be buried there, or have his or her cremated remains buried there, without the consent of the minister of the parish.

(5) In deciding whether to give consent under subsection (4), the minister must have due regard to any general guidance given by the PCC of the parish in question.

(6) For the avoidance of doubt it is hereby declared that the bishop of a diocese may consecrate land in the diocese for the sole purpose of the burial of cremated remains.

(7) In this section, "minister", in relation to a parish, means—
- (a) the incumbent of a benefice to which the parish belongs,
- (b) if the benefice is vacant, the minister acting as priest in charge of the parish or the curate licensed to the charge of the parish, or
- (c) if there is no minister or curate of that description, the rural dean of the deanery in which the parish is situated.

Commencement Information
I88 S. 88 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

89 Consecration of ground added to churchyard

(1) This section applies where ground adjoining a churchyard has been or is added to it.

(2) The bishop of the diocese may, at the churchyard or in the church to which the ground belongs, sign an instrument declaring and recording the consecration of the ground, without the need for the chancellor or registrar of the diocese to be present.

(3) The instrument must be in the form of a plan of the ground with the following endorsement—

> "I, ..., Bishop of ... , do hereby declare and record the ground added to the churchyard of ... , as on the plan, to be consecrated ground and part of the churchyard."

(4) The instrument is to be treated as signed by the bishop of the diocese if it is signed by a bishop nominated by him or her for the purposes of this section (whether another diocesan bishop or a suffragan or assistant bishop).

(5) The signature on the instrument must be witnessed by—
- (a) the chancellor,
- (b) a surrogate,
- (c) a clerk in Holy Orders beneficed or licensed to serve in the diocese, or
- (d) the churchwardens of the church concerned.

(6) Once the instrument, having been signed and witnessed, is deposited in the registry of the diocese, it has the same effect as a sentence of consecration.

(7) Sections 5 to 7 of the Consecration of Churchyards Act 1867 (conveyancing procedure etc.) apply for the purposes of this section and sections 90 and 91 as they apply for the purposes of that Act.

Commencement Information
I89 S. 89 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

90 Reservation of right to burial in land added to churchyard

(1) This section applies where a person, by way of a gift, transfers land which is to be added to a consecrated churchyard as referred to in section 89; and it does not matter whether or not the person resides in the parish in which the churchyard is situated.

(2) The person may reserve the exclusive right in perpetuity of burial and of placing monuments and gravestones in a part of the added land; but that part must not exceed one-sixth of the area of the whole of the added land.

(3) Where the right under subsection (2) is reserved, the part in question must be shown and coloured on the plan referred to in section 89.

(4) A memorandum in the following form must be written on the instrument referred to in that section—

> "We, ... (*Rector, Vicar or Incumbent*) and ... and ..., Churchwardens, of ... declare the piece of land (*insert description and measurement*), and coloured ... on this plan, to be the burial place of ..., the giver of the land added to the churchyard of ... , his or her heirs and assigns. Signed ... Witnessed ... Dated ..."

(5) The memorandum must be signed by the incumbent and churchwardens of the parish in which the churchyard is situated, with each signature being witnessed; and the memorandum must specify the date on which it is signed and witnessed.

(6) Once the memorandum has been signed and witnessed, and the land has been declared to be consecrated, the memorandum operates as an exclusive right in perpetuity in the specified land.

(7) The right forms part of the real estate of the person who reserved the right or of any successor in title to the right.

(8) The costs of preparing and executing the memorandum are to be borne by the person by whom the reservation is made.

(9) "Land" includes messuages, tenements and hereditaments, houses and buildings of any tenure.

Commencement Information
I90 S. 90 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

91 Conditions on reservation under section 90

(1) A body may not be buried in the land in which a right is reserved under section 90, nor may a monument or gravestone be placed on the land, without the consent of the person who is for the time being the owner of the right.

(2) But consent is not required under subsection (1) for the burial of a deceased owner, or of a spouse or widow or widower of a deceased owner who has been or is about to be buried in the land.

(3) The bishop of the diocese, or any person acting under the bishop's authority, has the same right to object to the placing of a monumental inscription within the reserved ground and to procure its removal as the bishop has to object to a monumental inscription in any consecrated ground and to procure its removal.

(4) The land in which a right is reserved under section 90 may not be included in an Order in Council under the Burial Act 1853 or 1855 which provides for the discontinuance of burials in the churchyard to which the land belongs.

(5) But burials in the land may be discontinued under a separate Order in Council under either of those Acts founded on the basis of a special report that the ground is in such a state as to render further burials in the land prejudicial to the public.

Commencement Information

I91 S. 91 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

92 Power of bishop to remove legal effects of consecration

(1) This section applies where the bishop of a diocese, on the application of the archdeacon of an archdeaconry in the diocese in relation to a building or land which is in the archdeaconry and which is subject to the legal effects of consecration, is satisfied that—

(a) the building or land is not held or controlled by an ecclesiastical corporation or a diocesan board of finance, and

(b) no purpose will be served by its remaining subject to the legal effects of consecration.

(2) The bishop may by order direct that the building or land or part of it is not to be subject to the legal effects of consecration; and, accordingly, where an order under this section is made, the faculty jurisdiction ceases to extend to the building or land or part concerned.

(3) An order under this section may impose such conditions or requirements as the bishop thinks fit as to—

(a) the preservation or disposal of any human remains believed to be buried in or beneath a building affected by the order or in land affected by it and of any tombstones, monuments or memorials commemorating the deceased persons;

(b) the maintenance of orderly behaviour in or on the building or land affected by the order.

(4) For the purposes of subsection (3)(a), the order may apply to the building or land such provisions of section 78 of and Schedule 6 to the Mission and Pastoral Measure 2011 (disposal of human remains) as are specified in the order, with or without modifications or adaptations.

(5) A condition or requirement within subsection (3)(a) may not be imposed by an order under this section except with the consent of the Secretary of State.

(6) A condition or requirement imposed by an order under this section is enforceable as if—
  (a) the archdeacon were the owner of the adjacent land, and
  (b) the condition or requirement were a negative covenant expressed to be entered into for the benefit of that adjacent land.

(7) For the purposes of subsection (6), the enforcement of a condition or requirement is to be regarded as being for the benefit of the archdeacon.

(8) Section 84 of the Law of Property Act 1925 (which enables the Upper Tribunal to discharge or modify restrictions affecting land), other than subsection (2) of that section, does not apply in relation to a condition or requirement imposed by an order under this section.

(9) A condition or requirement imposed by an order under this section is a local land charge; and for the purposes of the Local Land Charges Act 1975, the bishop who made the order is to be treated as the originating authority as respects the charge.

(10) The bishop must send each order he or she makes under this section to the registrar of the diocese; and the registrar must file each order in the diocesan registry.

(11) The registrar is entitled to such fees as may be authorised by an order under section 86 for—
  (a) filing an order under subsection (10);
  (b) permitting a search for and inspection of an order filed under that subsection;
  (c) providing a copy of an order filed under that subsection.

(12) For the purposes of subsection (10), an order may be sent by post to the registrar, delivered to him or her, or left at his or her proper address; and for that purpose and the purposes of section 7 of the Interpretation Act 1978, a person's proper address is that person's last known address.

(13) "Ecclesiastical corporation" means a corporation in the Church of England, whether sole or aggregate, established for spiritual purposes.

(14) "Diocesan board of finance" has the same meaning as in the Endowments and Glebe Measure 1976 (see section 45 of that Measure).

(15) The definition of "land" in Schedule 1 to the Interpretation Act 1978 does not apply to this section.

Commencement Information
I92 S. 92 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

93 Section 92: application to Crown land

(1) Section 92 applies to Crown land and to buildings situated on Crown land as it applies to other land and buildings.

(2) But a condition or requirement within section 92(3)(b) may not be imposed by an order under section 92 in relation to Crown land or a building situated on Crown land without the consent of the appropriate authority.

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

(3) For the purposes of subsection (2), land which is used for the purposes of the Church of England and which will become Crown land on ceasing to be so used or on the exercise of a right of re-entry is to be treated as Crown land.

(4) "Crown land" and "appropriate authority" each have the same meaning as in Part 13 of the Town and Country Planning Act 1990 (see section 293 of that Act).

(5) Any question as to which authority is the appropriate authority in relation to any land or building is to be determined by the Treasury.

Commencement Information

I93 S. 93 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

[F33 Other matters

Textual Amendments

F33 S. 93A and cross-heading inserted (17.5.2024) by Church of England (Miscellaneous Provisions) Measure 2024 (No. 1), **ss. 12**, 22(4); S.I. 2024/631, art. 2

93A Live broadcast of proceedings

(1) Where an ecclesiastical court directs that certain proceedings are to be broadcast live in order to enable members of the public to see and hear the proceedings, the direction must—

(a) specify the means by which the proceedings are to be broadcast (for example, by live stream), and

(b) state whether the whole, or only a specified part, of the proceedings is to be broadcast.

(2) It is a contempt of court for a person to make, or attempt to make, a transmission or recording of—

(a) an image or sound broadcast in accordance with the direction, or

(b) an image of, or sound made by, another person while that other person is viewing or listening to a broadcast made in accordance with the direction.

(3) Subsection (2) does not apply in so far as the transmission or recording is authorised by the direction or authorised (generally or specifically) by the ecclesiastical court in which the proceedings are being held.

(4) A broadcast made in accordance with the direction does not amount to a breach of—

(a) section 41 of the Criminal Justice Act 1925 (prohibition on taking photographs etc in court), or

(b) section 9 of the Contempt of Court Act 1981 (recording).

(5) "Ecclesiastical court" has the same meaning as in section 83(2)(a) and (b) (see section 83(7)).**]**

PART 6

GENERAL

Procedure

94 Regulations, rules and orders

(1) Each of the following powers is exercisable by statutory instrument—

(a) the power to make regulations under section 5 (maximum number of chancellorships etc.);

[F34(aa) the power to make regulations under section 21A (training requirements for ecclesiastical judges);]

(b) the power to make regulations under section 32 (age for end of registrar's term of office);

(c) the power to make regulations under section 33 (maximum number of registrarships etc.);

(d) the power to make rules under section 83;

(e) the power to make an order under section 86 (fees).

(2) The Statutory Instruments Act 1946 applies—

(a) as if the regulations, rules or order concerned had been made when approved by the General Synod, and

(b) as if this Measure were an Act of Parliament providing for the instrument containing the regulations, rules or order to be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F34 S. 94(1)(aa) inserted (17.5.2024) by Church of England (Miscellaneous Provisions) Measure 2024 (No. 1), **ss. 10(2)**, 22(4); S.I. 2024/631, art. 2

Modifications etc. (not altering text)

C1 S. 94 modified by 1977 No. 1, Sch. 1 para. 12(2) (as substituted (1.7.2018) by Mission and Pastoral etc. (Amendment) Measure 2018 (No. 4), s. 14(3), **Sch. para. 3** (with Sch. para. 4); S.I. 2018/722, art. 2(a) (with Sch. para. 3))

Commencement Information

I94 S. 94 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Interpretation

95 Interpretation

(1) In this Measure, unless otherwise indicated—

"chancellor" is to be read with section 2(3);

"communicant" has the meaning given in subsection (2) below;

"consistory court" is to be read with section 1(3);

"high judicial office" has the meaning given in subsection (3) below;

Changes to legislation: *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. (See end of Document for details)*

"parochial library" has the meaning given in subsection (4) below;
"PCC" means parochial church council;
"rules" means rules under section 83.

(2) "Communicant" means a person who has received communion according to the use of the Church of England or of a church in communion with it—
(a) at least once in the twelve months before the date of the person's declaration that he or she fulfils that requirement, or
(b) if a declaration is not required of the person, at least once in the twelve months before the date on which he or she is offered an appointment or requested to act in a capacity for which that qualification is required.

(3) "High judicial office" means—
(a) high judicial office within the meaning of Part 3 of the Constitutional Reform Act 2005 (see section 60(2) of that Act), or
(b) membership of the Judicial Committee of the Privy Council.

(4) "Parochial library" means a library in a parish which was founded (whether before or after the commencement of this Measure) by way of charitable contribution in order to assist clergy of the Church of England with their studies.

(5) For the purposes of this Measure—
(a) a place which is surrounded by or adjacent to one diocese and does not form part of that diocese is to be treated as being in that diocese;
(b) a place which is surrounded by or adjacent to two or more dioceses and does not form part of any of those dioceses is to be treated as being in such of them as the archbishop of the province concerned may direct.

Commencement Information
I95 S. 95 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Ancillary provision

96 Consequential amendments

(1) Schedule 3 (which contains consequential amendments) has effect.

(2) An amendment made by that Schedule to rules or to an order does not affect the power to make further rules or a further order amending or revoking the provision made by the amendment.

Commencement Information
I96 S. 96 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

97 Transitional, saving and transitory provision

Schedule 4 (which contains transitional, saving and transitory provision) has effect.

Commencement Information
I97 S. 97 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

98 Repeals and revocations

Schedule 5 (which contains repeals and revocations) has effect.

Commencement Information
I98 S. 98 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

Final provision

99 Commencement

(1) This section and sections 100 and 101 come into force on the day on which this Measure is passed.

(2) The preceding provisions of this Measure come into force on such day as the Archbishops of Canterbury and York may by order jointly appoint; and different days may be appointed for different purposes.

(3) The Archbishops of Canterbury and York may by order jointly make transitional, transitory or saving provision in connection with the commencement of a provision of this Measure.

(4) The power to make an order under subsection (2) or (3) is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies as if the order had been made by a Minister of the Crown and as if this Measure were an Act of Parliament.

100 Extent

(1) This Measure extends to the whole of the provinces of Canterbury and York, but extends to the Channel Islands and the Isle of Man only in accordance with the following provisions of this section.

(2) The provisions of Parts 3 to 5 and this Part may be applied to the Channel Islands, or either of them, in accordance with the Channel Islands (Church Legislation) Measures 1931 and 1957; and a reference in this section to the Channel Islands or either of them has the same meaning as a reference in those Measures to the Islands or either of them.

(3) If an Act of Tynwald or an instrument made under an Act of Tynwald so provides, the provisions of Parts 1, 3 to 5 and this Part extend to the Isle of Man subject to such exceptions, adaptations or modifications as are specified in the Act or instrument.

101 Short title

This Measure may be cited as the Ecclesiastical Jurisdiction and Care of Churches Measure 2018.

Changes to legislation:
There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018.