

Status: Point in time view as at 10/05/2018.

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)

VALID FROM 01/09/2018

SCHEDULES

SCHEDULE 1

Section 27

OTHER ECCLESIASTICAL JURISDICTIONS

Revival of amendments made by Care of Cathedrals (Supplementary Provisions) Measure 1994

- 1 Sections 8 and 9 of and the Schedule to the Care of Cathedrals (Supplementary Provisions) Measure 1994, and section 11 of that Measure so far as relating to those provisions, are to be treated as having been revived immediately after the commencement of the repeal of that Measure by Schedule 3 to the Care of Cathedrals Measure 2011.

Amendments of the Ecclesiastical Jurisdiction Measure 1963

- 2 The Ecclesiastical Jurisdiction Measure 1963 is amended as follows.
- 3 (1) Section 1 (the ecclesiastical courts) is amended as follows.
- (2) Omit subsections (1) and (2).
- (3) In subsection (3)—
- (a) for “the said provinces” substitute “ the provinces of Canterbury and York ”, and
- (b) omit paragraphs (b) and (d) and the “and” preceding paragraph (d).
- 4 Omit section 2 (judge of consistory court).
- 5 Omit section 2A (power to limit number of chancellorships etc.).
- 6 (1) Section 3 (judges of the Arches and Chancery Courts) is amended as follows.
- (2) In subsection (1), after “respectively” insert “ for the purposes of proceedings on an appeal under section 20 of the Clergy Discipline Measure 2003 ”.
- (3) In subsection (2)—
- (a) for paragraphs (a) and (b) substitute—
- “(a) one shall be the Dean of the Arches and Auditor;
- (b) four shall be appointed in accordance with section 20(2) and (3) of the Clergy Discipline Measure 2003.”, and
- (b) omit paragraph (d).
- (4) Omit subsections (3) to (6).
- (5) In subsection (7)(a), for “the said oaths” substitute “ the oaths set out in Part 1 of Schedule 1 to this Measure ”.

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- (6) In subsection (8), for “either of the two last foregoing subsections” substitute “subsection (7)”.
- 7 Omit section 4 (appointment of deputy judges of consistory court).
- 8 Omit section 5 (judges of the Ecclesiastical Causes Reserved).
- 9 Omit section 6 (jurisdiction of consistory court).
- 10 (1) Section 7 (jurisdiction of the Arches and Chancery Courts) is amended as follows.
- (2) Omit subsection (1).
- (3) In subsection (1A)—
- (a) for “Each of the said Courts shall also” substitute “The Arches Court of Canterbury and the Chancery Court of York shall each”, and
- (b) omit “including that Court”.
- (4) In subsection (2)—
- (a) in paragraph (a), omit “in a disciplinary case,”, and
- (b) omit paragraph (b).
- (5) Omit subsections (4) and (5).
- 11 Omit section 8 (appellate jurisdiction of Her Majesty in Council).
- 12 In section 10 (jurisdiction of Court of Ecclesiastical Causes Reserved), omit subsections (A1), (1)(b) and (2) to (6).
- 13 In section 11 (the title to which becomes “Jurisdiction of Her Majesty to review findings of Court of Ecclesiastical Causes Reserved”), omit subsection (2)(b).
- 14 For section 12 substitute—
- “12 Disciplinary tribunals to be unaffected by vacation of see**
- (1) The vacation of the see of Canterbury or York or of the bishop of any other diocese shall not render a disciplinary tribunal unable to exercise its jurisdiction, and no such vacancy shall affect the discharge by the members or officers of such a tribunal of their functions.
- (2) For provision as to the Arches Court of Canterbury, the Chancery Court of York and the Vicar-General's court of each province where there is a vacation of see as mentioned in subsection (1), see section 22 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018.”
- 15 Omit section 13 (certain judges to be ex officio officials principal).
- 16 Omit section 46 (proceedings in consistory court).
- 17 In section 47 (proceedings in Arches and Chancery Courts), in subsection (1A), omit “, including any directions under section 7(4) of this Measure”.
- 18 (1) Section 48 (proceedings before Commission of Review) is amended as follows.
- (2) In subsection (1), after “a Commission of Review” insert “exercising jurisdiction under this Measure”.
- (3) In subsection (2), after “in reviewing” insert “under this Measure”.

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- (4) In subsection (3), after “a Commission of Review” insert “ under this Measure ”.
- (5) In subsection (6)—
- (a) after “a previous Commission of Review” insert “ under this Measure or the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 ”, and
 - (b) after “subsequently appointed” insert “ under this Measure ”.
- 19 In section 58 (payment of costs of bishop etc.), omit paragraph (c) and the preceding “and”.
- 20 (1) Section 60 (powers of courts and commissions in regard to costs) is amended as follows.
- (2) In subsection (1), omit the words from “and the Vicar-General's court” to “1994”.
- (3) In subsection (2), for the words from the beginning to “examiner” substitute “ A court or commission exercising jurisdiction under this Measure, a Vicar-General's court as constituted under the Clergy Discipline Measure 2003, or a committee under this Measure ”.
- 21 In section 62 (payment of expenses of courts by Archbishops' Council), in subsection (1), omit the words from “and of the Vicar-General's court” to the end.
- 22 In section 69 (criminal proceedings)—
- (a) omit “in the consistory court of a diocese or”, and
 - (b) for “those Parts” substitute “ that Part ”.
- 23 In section 80 (place where courts etc. to sit)—
- (a) for “Any court, commission, committee or inquiry established or held by or under the provisions of this Measure” substitute “ Proceedings in a court or commission exercising jurisdiction under this Measure or of a committee or inquiry under this Measure ”, and
 - (b) omit “and the Vicar-General's court of each of the provinces of Canterbury and York”.
- 24 (1) Section 81 (evidence and general powers and rights of courts and commissions) is amended as follows.
- (2) In subsection (1)—
- (a) for “established” substitute “ exercising jurisdiction ”, and
 - (b) omit “and the Vicar-General's Court of each of the provinces of Canterbury and York”.
- (3) In subsection (2), omit “or Vicar-General's court”.
- (4) Omit subsection (4).
- Amendments of the Care of Cathedrals Measure 2011*
- 25 The Care of Cathedrals Measure 2011 is amended as follows.
- 26 In section 11(3) (constitution of Commission of Review), in paragraph (a), for the “section 3(3) of the Ecclesiastical Jurisdiction Measure 1963 (1963 No 1)” substitute “ section 10 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 ”.

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- 27 (1) Section 18 (institution of proceedings for injunction or restoration order) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The Church Commissioners may pay out of their general fund the whole or part of the costs and expenses incurred by a bishop or person designated as mentioned in subsection (1) in or in relation to or directly or indirectly arising out of proceedings authorised, taken or contemplated under subsection (1).
- (1B) Before making a payment under subsection (1A), the Commissioners must be satisfied that the costs or expenses are reasonable in amount.”
- (3) In subsection (2), in paragraph (a), for “section 58 of the Ecclesiastical Jurisdiction Measure 1963 (1963 No.1)” substitute “ subsection (1A) ”.
- 28 In section 19 (jurisdiction and composition of Vicar-General's court), after subsection (3) insert—
- “(4) Proceedings instituted under section 18 may be held in any place convenient to the court, due regard being had to the convenience of parties and witnesses.”
- 29 (1) Section 20 (powers of Vicar-General's court) is amended as follows.
- (2) In subsection (9), before “shall be a contempt of court” insert “ or of a special citation under subsection (1) ”.
- (3) After subsection (10) insert—
- “(11) The court 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.
- (12) If a person does or omits to do something in connection with proceedings instituted under section 18 which is in contempt of the court, the presiding judge may certify the act or omission under his or her hand to the High Court.
- (13) The High Court may—
- (a) on receiving a certificate under subsection (12), inquire into the alleged act or omission, and
- (b) after hearing any witnesses against or on behalf of 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.
- (14) For the right of appeal against a judgment, order or decree of the court in proceedings instituted under section 18, see section 14 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018.”
- 30 After section 20 insert—

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“20A Costs

- (1) The Vicar-General's court may, at any stage of proceedings instituted under section 18, order a party to give security for costs.
- (2) The Vicar-General's court may make an order against a party to proceedings instituted under section 18 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 the prescribed manner.
- (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 Vicar-General's court.
- (5) An appeal under subsection (4) is to be lodged and conducted in such manner as may be prescribed.
- (6) On an appeal under subsection (4), the Vicar-General 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 award for costs was made, is conclusive evidence of the facts certified.
- (9) In this section, “costs” includes fees, charges, disbursements, expenses and remuneration.

20B Payment of expenses of courts by Archbishops' Council

- (1) The Archbishops' Council must pay the costs and expenses of the Vicar-General's court for the purposes of proceedings instituted under section 18, except in so far as they are payable by any other person under section 20A or an order or rule for the time being in force.
- (2) Before making a payment under subsection (1), the Archbishops' Council must be satisfied that the costs or expenses are reasonable in amount.
- (3) The Church Commissioners may make contributions from their general fund in relief of the liability of the Archbishops' Council under this section.”

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