



# Ecclesiastical Jurisdiction Measure 1963

## 1963 No. 1

A Measure passed by The National Assembly of the Church of England to reform and reconstruct the system of ecclesiastical courts of the Church of England, to replace with new provisions the existing enactments relating to ecclesiastical discipline, to abolish certain obsolete jurisdictions and fees, and for purposes connected therewith. [31st July 1963]

### Modifications etc. (not altering text)

- C1 Power exercisable under this Measure by Convocations of Canterbury and York and the Houses thereof continued by [Synodical Government Measure 1969 \(No. 2\) s. 3\(6\)](#)
- C2 Measure extended by [Pastoral Measure 1983 \(No. 1, SIF 21:4\), s. 20\(9\)](#)  
Measure extended (*prosp.*) by [1993 Measure No. 2, ss. 5, 12\(2\)](#)
- C3 Measure applied (1.7.2012) by [Mission and Pastoral Measure 2011 \(No. 3\), ss. 34\(9\), 112\(3\)](#) (with [ss. 100, 105\(4\), 107, 108\(6\), Schs. 8](#)); [S.I. 2012/1, art. 2](#)

### Commencement Information

- II Measure not in force at Royal Assent see [s. 88\(1\)](#); Measure wholly in force at 1.3.1965

## PART I

### THE ECCLESIASTICAL JUDICIAL SYSTEM

#### *The Courts*

#### 1 The ecclesiastical courts.

- (1) For each diocese there shall be a court of the bishop thereof (to be called the consistory court of the diocese or, in the case of the court for the diocese of Canterbury, the commissary court thereof) which shall have the original jurisdiction [<sup>F1</sup>in non-disciplinary matters] conferred on it by this Measure.
- (2) For each of the provinces of Canterbury and York—

*Status: Point in time view as at 12/01/2016.*

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- (a) there shall be a court of the archbishop thereof (to be called, in the case of the court for the province of Canterbury, the Arches Court of Canterbury, and, in the case of the court for the province of York, the Chancery Court of York) which shall have the appellate jurisdiction conferred on it by this Measure; and
- <sup>F2</sup>(b) .....
- (3) For both of the said provinces—
  - <sup>F3</sup>(a) .....
  - (b) there shall be a court (to be called the Court of Ecclesiastical Causes Reserved) which shall have the original and appellate jurisdiction conferred on it by this Measure;
  - (c) there may, in accordance with the provisions in that behalf of this Measure, be appointed by Her Majesty commissioners who shall have such jurisdiction as is conferred on them by this Measure with respect to the review of findings <sup>F4</sup>... of the Court of Ecclesiastical Causes Reserved; and
  - (d) Her Majesty in Council shall have such appellate jurisdiction as is conferred on Her by this Measure.

**Textual Amendments**

**F1** Words in s. 1(1) inserted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 1 para. 2** (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops

**F2** S. 1(2)(b) repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops

**F3** S. 1(3)(a) repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops; [S.I. 2005/6](#), Instrument made by Archbishops

**F4** Words in s. 1(3)(c) repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops; [S.I. 2005/6](#), Instrument made by Archbishops

*The Judges of the Courts constituted by this Measure*

**2 Judge of consistory court.**

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

<sup>F5</sup>[( 1A ) Before appointing a person to be chancellor of a diocese the bishop shall consult the Lord Chancellor and the Dean of the Arches and Auditor.]

<sup>F6</sup>(2) A person appointed to be chancellor of a diocese shall be a person —

- (a) who holds or has held high judicial office or the office of Circuit judge, or
- (b) has the qualifications required for a person to be appointed a Circuit judge,

and, before appointing a layman, the bishop shall satisfy himself that that person is a communicant.]

<sup>F7</sup>(3) .....

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- (4) Subject to the provisions of [<sup>F8</sup>subsections (3) and (4A) [<sup>F9</sup>to (4C)] of this section], the appointment of a person to be chancellor of a diocese shall be [<sup>F10</sup>for the period beginning with the date of the appointment and ending with the date on which he attains the age [<sup>F11</sup> of seventy years ]], but he—
- (a) may resign his office by instrument in writing under his hand addressed to, and served on, the bishop of the diocese;
  - (b) may be removed by that bishop if the Upper House of the Convocation of the relevant province resolves that he is incapable of acting or unfit to act.
  - [<sup>F12</sup>(c) may continue to act as chancellor for the purpose of any proceedings or cause of faculty in the consistory court of the diocese during the course of which he attains the age [<sup>F11</sup> of seventy years ] as if the date of the conclusion in that court of those proceedings or that cause, as the case may be, were the date on which he attains that age.]
- [<sup>F13</sup>(4A) Where the bishop of a diocese considers it desirable in the interests of the diocese to retain the chancellor of the diocese in office after the date on which he would otherwise retire in accordance with subsection (4) above, he may authorise the continuance in office of the chancellor after that date for a period of up to 2 years.
- (4B) The bishop may authorise the further continuance in office of a chancellor for periods of up to 1 year at a time.
- (4C) The period during which a chancellor remains in office shall not be continued under subsection (4A) or (4B) above beyond the date at which the chancellor attains the age of 75 years.
- (4D) Before authorising any period of continuance in office of a chancellor under subsection (4A) or (4B), the bishop shall consult the Dean of the Arches and Auditor.]
- (5) The chancellor of a diocese shall, before he enters on the execution of his office,—
- (a) take <sup>F14</sup> . . . , either before the bishop of the diocese in the presence of the diocesan registrar, or in open court in the presence of that registrar, the oaths set out in Part I of the First Schedule to this Measure; . . . <sup>F15</sup>
  - (b) . . . . . <sup>F16</sup>
- and the diocesan registrar shall record the taking <sup>F14</sup> . . . of the said oaths . . . <sup>F15</sup>

#### Textual Amendments

- F5** S. 2(1A) inserted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991](#) (No. 1, SIF 21:8) , s. 8(1) , **Sch. 4 para. 2(a)** (with s. 31(6) ); Instrument dated 16.2.1993 made by the [Archbishops of Canterbury and York](#)
- F6** S. 2(2) substituted (19.5.2014) by [Church of England \(Miscellaneous Provisions\) Measure 2014](#) (No. 1) , **ss. 6(2)** , 21(2) (with s. 6(4)); S.I. 2014/1369, art. 2
- F7** S. 2(3) repealed (1.6.1992) by [Church of England \(Miscellaneous Provisions\) Measure 1992](#) (No. 1) , s. 17(2) , **Sch. 4 Pt. II** ; Instrument dated 27.5.1992 made by the [Archbishops of Canterbury and York](#) .
- F8** Words in s. 2(4) substituted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991](#) (No. 1, SIF 21:8) , s. 8(1) , **Sch. 4 para. 2(c)(i)** (with s. 31(6) ); Instrument dated 16.2.1993 made by the [Archbishops of Canterbury and York](#)
- F9** Words in s. 2(4) inserted (1.4.2015) by [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015](#) (No. 1) , **ss. 9(2)** , 11(2) (with s. 5(2)); S.I. 2015/593, art. 2 (with Sch. para. 56)

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- F10** Words substituted by [Ecclesiastical Judges and Legal Offices Measure 1976 \(No. 2\)](#) , **s. 1(1)(3)** except in relation to a person who holds the office of chancellor of a diocese, or, in the case of the diocese of Canterbury, commissary general on 25.4.1976
- F11** Words in s. 2(4) substituted (1.9.2010) by [Church of England \(Miscellaneous Provisions\) Measure 2010 \(No. 1\)](#) , **ss. 5(1)(b)**, 13(2) (with s. 5(2)); S.I. 2010/2, art. 3, Sch. 2
- F12** S. 2(4)( c ) added by [Ecclesiastical Judges and Legal Officers Measure 1976 \(No. 2\)](#) , **s. 1(1)**
- F13** S. 2(4A)-(4D) substituted for s. 2(4A) (1.4.2015) by [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#) , **ss. 9(1)**, 11(2); S.I. 2015/593, art. 2 (with Sch. para. 56)
- F14** Words in s. 2(5) repealed (1.9.1995) by 1995 No. 2 , **s. 9(a)** ; Instrument dated 26.7.1995 made by [Archbishops of Canterbury and York](#)
- F15** Word repealed by [Church of England \(Worship and Doctrine\) Measure 1974 \(No. 3\)](#) , **Sch. 2**
- F16** S. 2(5)( b ) repealed by [Church of England \(Worship and Doctrine\) Measure 1974 \(No. 3\)](#) , **Sch. 2**

### **[<sup>F17</sup>2A Number of chancellorships to be held by one person may be limited.**

- (1) Regulations made by the House of Bishops of the General Synod may make provision with respect to the maximum number of chancellorships [<sup>F18</sup> or deputy chancellorships] of dioceses which any one person may hold.
- (2) Nothing in any regulation made under this section shall be taken as prohibiting any person who at the date on which the regulation comes into force holds more than the maximum number of chancellorships [<sup>F18</sup> or deputy chancellorships] prescribed by the regulation from continuing to hold such offices.
- (3) Regulations made under this section shall be laid before the General Synod and shall not come into operation until they have been approved by the General Synod.
- (4) The <sup>M1</sup> Statutory Instruments Act 1946 shall apply to any regulations approved under subsection (3) of this section as if they were a statutory instrument and were made when so approved, and as if this Measure were an Act providing that any such regulations should be subject to annulment in pursuance of a resolution of either House of Parliament. ]

#### **Textual Amendments**

- F17** S. 2A inserted by [Ecclesiastical Judges and Legal officers Measure 1976 \(No. 2\)](#) , s. 2
- F18** Words in s. 2A(1)(2) inserted (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#) , **ss. 7(3)**, 16(2); S.I. 2006/2, Instrument made by Archbishops; S.I. 2006/2, Instrument made by Archbishops

#### **Marginal Citations**

- M1** 1946 c. 36.

### **3 Judges of the Arches and Chancery Courts.**

- (1) The judges of the Arches Court of Canterbury and the Chancery Court of York respectively shall be [<sup>F19</sup>as set out in subsection (2) of this section], but proceedings which, by virtue of the following provisions of this Measure, are cognisable by either of those Courts shall be heard and disposed of by such of the judges thereof as may be determined in accordance with those provisions.
- (2) Of the judges of each of the said Courts—

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- (a) one, who shall be a judge of both Courts (and, in respect of his jurisdiction in the province of Canterbury shall be styled Dean of the Arches and, in respect of his jurisdiction in the province of York, shall be styled Auditor, and is hereinafter referred to in this Measure as the Dean of the Arches and Auditor), shall be appointed by the archbishops of Canterbury and York jointly with the approval of Her Majesty signified by warrant under the sign manual;
- [<sup>F20</sup>(b) for the purposes of proceedings on an appeal under section 20 of the Clergy Discipline Measure 2003, four shall be appointed in accordance with subsections (2) and (3) of that section;]
- <sup>F21</sup>[(d) the others shall be all the diocesan chancellors appointed under section 2 of this Measure (in whichever province), except the chancellor of the diocese in Europe;]
- [<sup>F22</sup>(3) A person appointed to be Dean of the Arches and Auditor shall be a person who—
- (a) holds or has held high judicial office, or
  - (b) has the qualifications required for a person to be appointed a Lord Justice of Appeal,
- and, before appointing a layman, the Archbishops of Canterbury and York shall satisfy themselves that that person is a communicant.]
- <sup>F23</sup>(4) . . . . .
- [<sup>F24</sup>(5) The appointment of the Dean of the Arches and Auditor shall be for a period beginning with the date of the appointment and ending with the date on which he attains the age of seventy-five years, but—
- (a) he may resign his office by instrument in writing under his hand addressed to, and served on, the Archbishops of Canterbury and York,
  - (b) he may be removed by the Archbishops of Canterbury and York jointly if the Upper Houses of the Convocations of the provinces of Canterbury and York each resolve that he is incapable of acting or unfit to act, and
  - (c) he may continue to act as a judge for the purpose of any proceedings in either Court during the course of which he attains the age of seventy-five years as if the date of the conclusion of the proceedings were the date on which he attains that age.]
- (6) [<sup>F25</sup>The Dean of the Arches and Auditor and every chancellor of a diocese shall, before he enters on the execution of his office as a judge of the said Courts],—
- (a) take <sup>F26</sup>. . .,—
    - (i) before the archbishop of Canterbury in the presence of the registrar of the province of Canterbury and before the archbishop of York in the presence of the registrar of the province of York; or
    - (ii) in open court in both of those provinces in the presence of the registrar of the province;the oaths set out in Part I of the First Schedule to this Measure; . . . <sup>F27</sup>
  - (b) . . . . . <sup>F28</sup>
- (7) [<sup>F29</sup>A person appointed under paragraph [<sup>F30</sup> (b)] of subsection (2) of this section] to hold the office of judge of either of the said Courts shall, before he enters on the execution of his office,—
- (a) take <sup>F26</sup>. . . the said oaths either before the archbishop of the relevant province and in the presence of the registrar of that province or in open court in the presence of that registrar; . . . <sup>F27</sup>

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(b) . . . <sup>F28</sup>

(8) A provincial registrar shall record the taking . . . <sup>F27F31</sup> . . . , of an oath . . . <sup>F27</sup> in his presence in pursuance of either of the two last foregoing subsections.

#### Textual Amendments

- F19** Words in s. 3(1) substituted (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 8(1), **Sch. 4 para. 3(a)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F20** S. 3(2)(b) substituted for s. 3(2)(b)(c) (1.2.2014) by Clergy Discipline (Amendment) Measure 2013 (No. 2), **ss. 9(3), 10(2)**; S.I. 2014/1, art. 2
- F21** S. 3(2)(d) inserted (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 8(1), **Sch. 4 para. 3(b)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F22** S. 3(3) substituted (19.5.2014) by Church of England (Miscellaneous Provisions) Measure 2014 (No. 1), **ss. 6(3), 21(2)** (with s. 6(4)); S.I. 2014/1369, art. 2
- F23** S. 3(4) repealed (1.2.2014) by Clergy Discipline (Amendment) Measure 2013 (No. 2), **ss. 9(4), 10(2)**; S.I. 2014/1, art. 2
- F24** S. 3(5) substituted (1.2.2014) by Clergy Discipline (Amendment) Measure 2013 (No. 2), **ss. 9(5), 10(2)**; S.I. 2014/1, art. 2
- F25** Words in s. 3(6) substituted (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 8(1), **Sch. 4 para. 3(e)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F26** Words in s. 3(6)(7) repealed (1.9.1995) by 1995 No. 2, **s. 9(b)(i)**; Instrument dated 26.7.1995 made by Archbishops of Canterbury and York
- F27** Words repealed by Church of England (Worship and Doctrine) Measure 1974 (No. 3), **Sch. 2**
- F28** S. 3(6)(b)(7)(b) repealed by Church of England (Worship and Doctrine) Measure 1974 (No. 3), **Sch. 2**
- F29** Words in s. 3(7) substituted (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 8(1), **Sch. 4 para. 3(f)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F30** Word in s. 3(7) substituted (1.2.2014) by Clergy Discipline (Amendment) Measure 2013 (No. 2), **ss. 9(6), 10(2)**; S.I. 2014/1, art. 2
- F31** Words in 3(8) repealed (1.9.1995) by 1995 No. 2, **s. 9(b)(ii)**; Instrument dated 26.7.1995 made by Archbishops of Canterbury and York

#### 4 Appointment of deputy judges.

(1) [<sup>F32</sup>Where the Dean of the Arches and Auditor or any chancellor is for any reason unable to act as such, or the office of the Dean or any chancellor is vacant], the archbishops of Canterbury and York in the former case, and the bishop of the diocese concerned in the latter, may appoint a fit and proper person to act as deputy Dean of the Arches and Auditor or deputy chancellor of such diocese as the case may be during [<sup>F32</sup>the period of inability or vacancy], and every person so appointed shall have all the powers and perform all the duties of the [<sup>F32</sup>office in respect of which he is appointed to act as deputy].

<sup>F33</sup>[( 1A ) The Dean of the Arches and Auditor <sup>F34</sup>... may, with the consent of the Archbishops of Canterbury and York <sup>F34</sup>... appoint a fit and proper person to act as deputy Dean of the Arches and Auditor <sup>F34</sup>... for such period not exceeding twelve months or for such purpose as may be specified in the instrument of appointment, and during that period

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or for that purpose every person so appointed shall have all the powers and perform all the duties of the office [F35 of Dean of the Arches and Auditor]].

[F36(1B) Any chancellor may, with the consent of the bishop of the diocese, appoint, in writing, a fit and proper person to act as deputy chancellor of the diocese and any person so appointed shall have all the powers and perform all the duties of the office of chancellor.

(1C) The appointment of a deputy chancellor appointed under subsection (1B) of this section shall continue so long as the chancellor who appointed the deputy chancellor continues in office and, thereafter, for the period of three months beginning with the date on which the chancellor ceases to hold office or until the deputy chancellor attains the age at which the chancellor would be required to vacate the office of chancellor under section 2(4) of this Measure, whichever is sooner, but a deputy chancellor—

- (a) may resign the office of deputy chancellor by notice in writing addressed to the chancellor,
- (b) may be removed by the chancellor, after consultation with the bishop, if the chancellor considers that the deputy is incapable of acting or unfit to act, and
- (c) may continue to act as chancellor for the purpose of any proceedings or cause of faculty in the consistory court of the diocese during the course of which the deputy chancellor attains the said age or, as the case may be, the three months period referred to above expires, as if the date of the conclusion in the court of those proceedings or that cause, as the case may be, were the date on which that age is attained or, as the case may be, that period has expired.]

(2) Every deputy judge appointed to act pursuant to the provisions of the foregoing [F37 subsections] shall be qualified as hereinbefore provided with respect to the person whose functions he is appointed to perform and, before he enters on the execution of his office, such deputy shall take and subscribe such oaths . . . F38 as are required to be taken, . . . F38 and subscribed by the Dean of the Arches and Auditor or by a chancellor of a diocese, as the case may be, under the preceding provisions of this Measure in manner thereby appointed, and such oaths . . . F38 shall be recorded in the like manner.

### Textual Amendments

- F32** Words in s. 4(1) expressed to be inserted (1.3.1993) for the words from the beginning to "any chancellor" by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), **Sch. 4 para. 4(a)(i)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York  
Words in s. 4(1) substituted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), **Sch. 4 para. 4(a)(ii)**; Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York  
Words in s. 4(1) substituted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), **Sch. 4 para. 4(a)(iii)**; Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F33** S. 4(1A) inserted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), **Sch. 4 para. 4(b)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F34** Words in s. 4(1A) omitted (1.10.2006) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), **ss. 7(4)**, 16(2); S.I. 2006/2, Instrument made by Archbishops
- F35** Words in s. 4(1A) substituted (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), **ss. 7(4)**, 16(2); S.I. 2006/2, Instrument made by Archbishops

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- F36** S. 4(1B)(1C) inserted (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\), ss. 7\(5\), 16\(2\); S.I. 2006/2](#), Instrument made by Archbishops
- F37** Word in s. 4(2) substituted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), **Sch. 4 para. 4(c)**; Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F38** Words repealed by [Church of England \(Worship and Doctrine\) Measure 1974 \(No. 3\), Sch. 2](#)

## 5 Judges of the Court of Ecclesiastical Causes Reserved.

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

### *Jurisdiction of the Courts*

## 6 Jurisdiction of the consistory court.

- (1) Subject to the provisions of the following subsection the consistory court of a diocese has original jurisdiction to hear and determine—

- <sup>F39</sup>(a) .....
- (b) a cause of faculty for authorising—
- (i) any act relating to land within the diocese, or to anything on or in such land, being an act for the doing of which the decree of a faculty is requisite;
  - (ii) the sale of books comprised in a library within the diocese, being a library to which the <sup>M2</sup>Parochial Libraries Act 1708 applies;
- <sup>F40</sup>[(bb) proceedings for an injunction or restoration order under section 13 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991;]
- (c) proceedings upon any *jus patronatus* awarded by the bishop of the diocese;
- (d) proceedings for the recovery of any penalty or forfeiture incurred under section thirty-two . . . <sup>F41</sup> of the <sup>M3</sup>Pluralities Act 1838 in relation to a benefice in the diocese <sup>F42</sup> . . . and any proceedings consequent upon the return into the court of a monition in pursuance of section one hundred and twelve of that Act;
- (e) any proceedings (other than as aforesaid) which, immediately before the passing of this Measure, it had power to hear and determine, not being proceedings jurisdiction to hear and determine which is expressly abolished by this Measure.

- (2) Nothing contained in the foregoing subsection shall extend, or be construed as extending, the jurisdiction of the consistory court in faculty matters to any land or to anything on or in such land in respect of which such court had no jurisdiction immediately before the passing of this Measure.

### **Textual Amendments**

- F39** S. 6(1)(a) repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\), s. 48\(2\), Sch. 2](#) (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops



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**F40** S. 6(1)(bb) inserted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991](#) (No. 1, SIF 21:8), s. 8(1), **Sch. 4 para.5** (with s. 31(6)); Instrument dated 16.2.1993 made by the [Archbishops of Canterbury and York](#)

**F41** Words repealed by [Repairs of Benefice Buildings Measure 1972](#) (No. 2), **Sch. 2**

**F42** Words in s. 6(1)(d) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004](#) (c. 14), **Sch. 1 Pt. 6**  
Group 1

**Modifications etc. (not altering text)**

**C4** S. 6 excluded (9.6.2009) by [Nottingham Express Transit System Order 2009](#) (S.I. 2009/1300), arts. 1, **5(10)** (with [Sch. 13 paras. 14\(2\), 14 para. 19](#))

**C5** S. 6 excluded (12.1.2016) by [The London Underground \(Bank Station Capacity Upgrade\) Order 2015](#) (S.I. 2015/2044), arts. 1, **5**

**Marginal Citations**

**M2** 1708 c. 14.

**M3** 1838 c. 106.

## 7 Jurisdiction of Arches and Chancery Courts.

[<sup>F43</sup>(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 within the province for which they are constituted respectively—

(a) in a cause of faculty, or

(b) in proceedings of the kind mentioned in section 6(1)(bb), (d) or (e),

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

[<sup>F44</sup>(1A) Each of the said Courts shall also have jurisdiction to hear and determine appeals from judgments, orders or decrees of the Vicar-General's court of the province of Canterbury or York]<sup>F45</sup> (including that Court as constituted in accordance with the Clergy Discipline Measure 2003 ], as the case may be.]

[<sup>F46</sup>(1B) Each of the said Courts shall also have jurisdiction to hear and determine appeals from judgments, orders or decrees of disciplinary tribunals within the provinces for which they are constituted respectively.]

(2) An appeal which, by virtue of this section, either of the said Courts has jurisdiction to entertain lies—

[<sup>F47</sup>(a) in a disciplinary case, [<sup>F48</sup> with the leave of the court in accordance with section 20(1A) and (1B) of the Clergy Discipline Measure 2003,] at the instance of any party to the proceedings on a question of law and the defendant on a question of fact;

(b) in any other case, at the instance of any party to the proceedings but only with the leave of the consistory court or the Vicar-General's Court as the case may be or <sup>F49</sup>... of the Dean of the Arches and Auditor.]

(3) Appeals under this section shall be lodged and conducted in such manner as may be prescribed.

[<sup>F50</sup>(4) Each of the appellate courts mentioned in subsection (1) of this section also has jurisdiction, either on its own motion or on the application of any party to proceedings pending in a consistory court, to give directions as to the further conduct of those

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proceedings if it considers that there has been inordinate delay in the conduct of the proceedings or it is otherwise in the interests of justice.

- (5) Subsection (4) enables any directions to be given which could have been given by the chancellor.]

#### Textual Amendments

- F43** S. 7(1) substituted (1.4.2015) by [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#), **ss. 7(1)**, 11(2); S.I. 2015/593, art. 2 (with Sch. para. 4)
- F44** S. 7(1A) inserted (1.10.1994) by 1994 No. 2, s. 8, **Sch. para. 2(a)**; Instrument dated 25.7.1994 made by [Archbishops of Canterbury and York](#)
- F45** Words in s. 7(1A) inserted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 1 para. 4(a)** (with s. 47); S.I. 2005/6, Instrument made by [Archbishops](#)
- F46** S. 7(1B) inserted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 1 para. 4(b)** (with s. 47); S.I. 2005/6, Instrument made by [Archbishops](#)
- F47** Words in s. 7(2) substituted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 1 para. 4(c)** (with s. 47); S.I. 2005/6, Instrument made by [Archbishops](#)
- F48** Words in s. 7(2)(a) inserted (1.2.2014) by [Clergy Discipline \(Amendment\) Measure 2013 \(No. 2\)](#), **ss. 9(7)**, 10(2); S.I. 2014/1, art. 2
- F49** Words in s. 7(2)(b) omitted (1.4.2015) by virtue of [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#), **ss. 7(2)**, 11(2); S.I. 2015/593, art. 2 (with Sch. para. 4)
- F50** S. 7(4)(5) inserted (1.4.2015) by [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#), **ss. 8**, 11(2); S.I. 2015/593, art. 2

## 8 Appellate jurisdiction of Her Majesty in Council.

- (1) Her Majesty in Council has jurisdiction to hear and determine appeals from judgments of the Arches Court of Canterbury and the Chancery Court of York in proceedings which, by virtue of [<sup>F51</sup>paragraph (a)] of subsection (1) of the last foregoing section, those Courts have jurisdiction to entertain.
- (2) An appeal which, by virtue of this section, Her Majesty in Council has jurisdiction to entertain lies at the instance of any party to the proceedings [<sup>F52</sup>with the leave of Her Majesty in Council].

#### Textual Amendments

- F51** Words in s. 8 substituted (1.4.2015) by [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#), **ss. 7(3)**, 11(2); S.I. 2015/593, art. 2 (with Sch. para. 4)
- F52** Words in s. 8(2) inserted (1.9.2000) by 2000 Measure No. 1, s. 15; Instrument dated 30.8.2000 made by the [Archbishops of Canterbury and York](#)

## <sup>F53</sup>9 Jurisdiction of commissions of convocation.

#### Textual Amendments

- F53** S. 9 repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); S.I. 2005/6, Instrument made by [Archbishops](#)

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## 10 Jurisdiction of Court of Ecclesiastical Causes Reserved.

[<sup>F54</sup>(A1) 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 a cause of faculty, or
- (b) in proceedings of the kind mentioned in section 6(1)(bb) or (e),

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

(1) The Court of Ecclesiastical Causes Reserved has original jurisdiction to hear and determine—

(a) proceedings upon articles charging an offence against the laws ecclesiastical involving matter of doctrine ritual or ceremonial committed by—

- (i) a priest or deacon who when the offence was alleged to have been committed or when the proceedings were instituted, held preferment in a diocese or resided therein;
- (ii) an archbishop or a bishop who, at one of those times, was a diocesan or a suffragan commissioned by a diocesan or (not being either a diocesan or a suffragan) held preferment in a diocese or resided therein

(b) all suits of *duplex querela*;

<sup>F55</sup> ...

(2) An appeal which, by virtue of this section, the Court of Ecclesiastical Causes Reserved has jurisdiction to entertain lies at the instance of any party to the proceedings.

(3) For the purpose of determining whether an appeal from a judgment, order or decree of a consistory court <sup>F56</sup>... lies to the Arches Court of Canterbury or the Chancery Court of York under <sup>F57</sup>... subsection (1) of section seven of this Measure or to the Court of Ecclesiastical Causes Reserved by virtue of this section, it shall be the duty of the chancellor to certify upon the application of the party desiring to appeal whether or not [<sup>F58</sup>the proposed appeal relates to any extent to matter involving doctrine, ritual or ceremonial]<sup>F59</sup> . . .

<sup>F60</sup>[( 4 ) In any proceedings in the Court of Ecclesiastical Causes Reserved on an appeal from a judgment, order or decree of a consistory court of a diocese <sup>F61</sup>..., the court—

- (a) if it 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 relates also to other matter, may, if it considers it expedient to do so, deal with the other matter, but otherwise shall refer it, and
- (b) if it considers that no matter of doctrine, ritual or ceremonial is involved, shall refer the appeal (notwithstanding any certificate to the contrary issued under subsection (3) of this section),

to the Arches Court of Canterbury or the Chancery Court of York, as appropriate, to be heard and determined by that court.

(5) In any proceedings in the Arches Court of Canterbury or the Chancery Court of York on an appeal from a judgment, order or decree of a consistory court of a diocese <sup>F62</sup>..., the court [<sup>F63</sup>shall, if it considers that the appeal to any extent] relates to matter involving doctrine, ritual or ceremonial, refer the appeal (notwithstanding any certificate to the contrary issued under subsection (3) of this section) to the Court of Ecclesiastical Causes Reserved to be heard and determined by that court.

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- (6) Subject to any rules made under section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991, any reference of an appeal under subsection (4) or (5) of this section shall be in accordance with such practice directions as may be issued jointly by the Dean of the Arches and Auditor and the two judges of the Court of Ecclesiastical Causes Reserved appointed in accordance with section 5 of this Measure by virtue of their holding, or having held, high judicial office.]

#### Textual Amendments

- F54** S. 10(A1) inserted (1.4.2015) by [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#), [ss. 7\(4\)](#), 11(2); S.I. 2015/593, art. 2 (with Sch. para. 4)
- F55** Words in s. 10(1) omitted (1.4.2015) by virtue of [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#), [ss. 7\(5\)](#), 11(2); S.I. 2015/593, art. 2 (with Sch. para. 4)
- F56** Words in s. 10(3) omitted (1.4.2015) by virtue of [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#), [ss. 7\(6\)\(a\)](#), 11(2); S.I. 2015/593, art. 2 (with Sch. para. 4)
- F57** Words in s. 10(3) omitted (1.4.2015) by virtue of [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#), [ss. 7\(6\)\(b\)](#), 11(2); S.I. 2015/593, art. 2 (with Sch. para. 4)
- F58** Words in s. 10(3) substituted (1.4.2015) by [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#), [ss. 7\(6\)\(c\)](#), 11(2); S.I. 2015/593, art. 2 (with Sch. para. 4)
- F59** Words in s. 10(3) omitted (1.3.1993) by virtue of [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), [Sch. 4 para. 7\(a\)](#) (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F60** S. 10(4)-(6) inserted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), [Sch. 4 para. 10\(b\)](#) (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F61** Words in s. 10(4) omitted (1.4.2015) by virtue of [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#), [ss. 7\(7\)](#), 11(2); S.I. 2015/593, art. 2 (with Sch. para. 4)
- F62** Words in s. 10(5) omitted (1.4.2015) by virtue of [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#), [ss. 7\(8\)\(a\)](#), 11(2); S.I. 2015/593, art. 2 (with Sch. para. 4)
- F63** Words in s. 10(5) substituted (1.4.2015) by [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#), [ss. 7\(8\)\(b\)](#), 11(2); S.I. 2015/593, art. 2 (with Sch. para. 4)

## 11 Jurisdiction of Her Majesty with respect to review of findings of commissions of convocation or of Court of Ecclesiastical Causes Reserved.

<sup>F64</sup>(1) .....

- (2) A petition addressed to Her Majesty praying that she will be pleased to cause a finding of the Court of Ecclesiastical Causes Reserved to be reviewed may be lodged with the Clerk of the Crown in Chancery—
- (a) in a case where the finding of the Court was in exercise of the jurisdiction it has by virtue of paragraph (a) of subsection (1) of the last foregoing section, by any party to the proceedings on a question of law and the defendant on a question of fact;
  - (b) in any other case, by any party to the proceedings.
- (3) Any such petition must be in the prescribed form and must be lodged as aforesaid within the prescribed period after the finding to which it relates.
- (4) Upon a petition being duly lodged under this section, a commission shall be directed under the Great Seal to such five persons as Her Majesty may be pleased to nominate, of whom three shall be [<sup>F65</sup> judges of the Supreme Court, or members of the

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supplementary panel under section 39 of the Constitutional Reform Act 2005,] who make a declaration that they are communicants and two shall be lords spiritual sitting as Lords of Parliament, to review the finding to which the petition relates.

(5) A commission appointed under this section shall be called a Commission of Review.

#### Textual Amendments

- F64** S. 11(1) repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), [Sch. 2](#) (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops
- F65** Words in s. 11 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 17 para. 16\(2\)](#); [S.I. 2009/1604](#), art. 2(e)

#### *Miscellaneous Provisions relating to the Courts and the Judges*

### **12 Consistory, Arches and Chancery Courts to be unaffected by vacation of sees.**

The vacation of the see of Canterbury or of the see of York shall not render the Arches Court of Canterbury or the Chancery Court of York unable to exercise their respective jurisdictions nor shall the vacation of those sees or the see of the bishop of any other diocese render any consistory court<sup>F66</sup>, Vicar-General's court or disciplinary tribunal] unable to exercise its jurisdiction, and subject to the provisions of subsection (3) of section two of this Measure no such vacancy shall affect the discharge by the judges<sup>F67</sup>, members or officers of any such court or tribunal] as aforesaid of their functions.

#### Textual Amendments

- F66** Words in s. 12 inserted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), [Sch. 1 para. 5\(a\)](#) (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops
- F67** Words in s. 12 substituted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), [Sch. 1 para. 5\(b\)](#) (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops

### **13 Certain judges to be ex officio officials principal.**

- (1) The Dean of the Arches and Auditor shall, by virtue of his office, be the Official Principal of the archbishop of Canterbury and the Official Principal of the archbishop of York in their respective capacities of Metropolitans and shall also be Master of the Faculties to the archbishop of Canterbury.
- (2) The chancellor of a diocese shall by virtue of his office be the Official Principal of the bishop of that diocese.

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## PART II

### OFFENCES COGNISABLE UNDER THE MEASURE AND PROVISIONS AS TO PERSONS CHARGEABLE THEREWITH

#### 14 Offences under the Measure.

- (1) Proceedings may be instituted under this Measure against any of the persons specified in section seventeen thereof charging—
- (a) an offence against the laws ecclesiastical involving matters of doctrine, ritual or ceremonial;
  - <sup>F68</sup>(b) .....
- (2) The repeal by this Measure of any statutory provision under which proceedings could have been taken for an offence against the law ecclesiastical shall not prevent the taking of any proceedings under this Measure in respect of any such offence.

#### Textual Amendments

**F68** Words in s. 14(1) from "(b)" to the end of the subsection repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), [Sch. 2](#) (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops

#### 15 Place where offence committed.

Proceedings under this Measure for an offence involving matters of doctrine, ritual or ceremonial shall only be instituted if the offence was committed within the province of Canterbury or York,<sup>F69</sup> ...

#### Textual Amendments

**F69** Words in s. 15 repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), [Sch. 2](#) (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops

#### 16 Limitation of time for institution of proceedings under the Measure.

No proceedings under this Measure shall be instituted unless the act or omission constituting the offence, or the last of them if the offence consists of a series of acts or omissions, occurred within the period of three years ending with the day on which proceedings are instituted:

<sup>F70</sup> ...

#### Textual Amendments

**F70** Words in s. 16 repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), [Sch. 2](#) (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops

#### 17 Persons against whom proceedings may be instituted.

Proceedings under this Measure may be instituted against an archbishop, any diocesan bishop or any suffragan bishop commissioned by a diocesan bishop or any other bishop

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or a priest or deacon who, when the offence was alleged to have been committed or when the proceedings are instituted, held or holds preferment in any diocese or resided or resides therein as the case may be.

### PART III

#### INSTITUTION OF PROCEEDINGS IN RESPECT OF OFFENCES UNDER THE MEASURE

#### 18 Mode of instituting proceedings.

- (1) Proceedings charging an offence under this Measure shall be instituted in the case of an archbishop or a bishop by way of complaint laid before the registrar of the relevant province and in the case of a priest or deacon by way of complaint laid before the registrar of any diocese in which the accused held or holds preferment or in which he resided or resides at the date when the alleged offence was committed or at the date of such complaint.
- (2) A complaint laid in accordance with the provisions of the preceding subsection shall be in writing in the prescribed form, contain the prescribed particulars of the offence the commission of which is alleged therein and be verified on oath.
- (3) A copy of the complaint duly laid and verified shall be served on the accused forthwith after it is laid.

#### 19 Persons by whom proceedings against a priest or deacon may be instituted.

Proceedings against a priest or deacon may be instituted by the following persons, that is to say:—

- (a) in all cases by an authorised complainant; or
- (b) in the case of any priest or deacon who is an incumbent of a parochial benefice, a stipendiary curate licensed to a benefice or a curate in charge of a conventional district, by six or more persons of full age whose names are on the electoral roll either of the parish of that benefice or of the district as the case may be; or
- (c) in the case of a stipendiary curate licensed to a benefice, by the incumbent of that benefice.

#### 20 Persons by whom proceedings against an archbishop or bishop may be instituted.

Proceedings against an archbishop or a bishop may be instituted by the following persons, that is to say:—

- (a) in the case of an archbishop:—
  - (i) save in respect of any act or omission in relation to his duties as diocesan by not less than two of his comprovincial diocesan bishops; or
  - (ii) save in respect of any act or omission in relation to his duties as metropolitan by not less than ten persons of whom not less than five are incumbents in the diocese of the accused and not less than five are lay members of the [<sup>F71</sup>diocesan synod] of such diocese; or
- (b) in the case of a diocesan bishop other than an archbishop:—

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- (i) by an authorised complainant; or
- (ii) by not less than ten persons of whom not less than five are incumbents in the diocese of the accused and not less than five are lay members of the [<sup>F71</sup>diocesan synod] of such diocese; or
- (c) in the case of a suffragan bishop:—
  - (i) by the bishop who commissioned him; or
  - (ii) by an authorised complainant; or
  - (iii) by not less than ten persons of whom not less than five are incumbents in the diocese of the bishop by whom the accused is commissioned and not less than five are lay members of the [<sup>F71</sup>diocesan synod] of such diocese; or
  - (iv) if he is the incumbent of a parochial benefice by six or more persons of full age whose names are on the electoral roll of that parish; or
- (d) in the case of any other bishop:—
  - (i) by the bishop of the diocese in which the accused holds preferment or resides; or
  - (ii) by an authorised complainant; or
  - (iii) if he is the incumbent of a parochial benefice by six or more persons of full age whose names are on the electoral roll of that parish.

#### **Textual Amendments**

**F71** Words substituted by virtue of [Synodical Government Measure 1969 \(No. 2\), s. 4\(7\)](#)

## **21 Supplementary provisions in special cases.**

- (1) For the purposes of the last two preceding sections of this Measure:—
- (a) where a bishop, priest or deacon is an incumbent of or licensed to more than one parochial benefice or a parochial benefice which comprises more than one parish, each of the six or more persons empowered to institute proceedings under paragraph (b) of section nineteen or subparagraph (iv) of paragraph (c) and subparagraph (iii) of paragraph (d) of section twenty of this Measure may be on the electoral roll of any of the parishes comprised in those benefices or that benefice; and
  - (b) a church designated and established as a guild church under the <sup>M4</sup>City of London (Guild Churches) Acts 1952 and <sup>M5</sup>1960 shall be deemed to be a parochial benefice and, accordingly, references in the said sections to the incumbent of a parochial benefice, to the electoral roll of a parish and to a stipendiary curate licensed to a benefice (whether parochial or not) shall, in the case of a guild church, be construed as references to the vicar of such church, to the church electoral roll thereof and to a curate licensed to assist the vicar thereof respectively.
- (2) The provisions of paragraph (a) of the foregoing subsection shall apply in any case where a bishop or priest, as well as being licensed to a benefice, is licensed also to a conventional district, or to any such person as is licensed to more than one conventional district.



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**Marginal Citations**

M4 1952 c. xxxviii.

M5 1960 c. xxx.

<sup>F72</sup>**PART IV**

**CONDUCT OF PROCEEDINGS AGAINST PRIESTS OR DEACONS FOR OFFENCES UNDER THE MEASURE NOT INVOLVING MATTER OF DOCTRINE, RITUAL OR CEREMONIAL.**

**Textual Amendments**

**F72** Pt. 4 repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

*Scope of Part IV*

**22 Scope of Part IV.**

.....

*Procedure under Part IV after Laying of Complaint*

**23 Duty of diocesan upon the making of complaint.**

.....

**24 Inquiry into complaint by examiner.**

.....

**25 Appointment of person to promote complaint.**

.....

**26 Contents of articles.**

.....

**27 Power of chancellor to nominate trial judge in lieu of himself.**

.....

**28 Conduct of trial under Part IV.**

.....

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**29 New Trial.**

.....

*Examiners and Assessors*

**30 Constitution of panels of examiners and assessors, &c.**

.....

*Power of Diocesan to pronounce Sentence by Consent*

**31 Power of diocesan to pronounce sentence by consent.**

.....

<sup>F73</sup>**PART V**

**CONDUCT OF PROCEEDINGS AGAINST BISHOPS FOR OFFENCES UNDER THE  
MEASURE NOT INVOLVING MATTER OF DOCTRINE, RITUAL OR CEREMONIAL**

**Textual Amendments**

**F73** Pt. 5 repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

*Scope of Part V*

**32 Scope of Part V.**

.....

*Procedure under Part V after Laying of Complaint*

**33 Inquiry into complaint by episcopal committee.**

.....

**34 Contents of articles.**

.....

**35 Appointment of commission of convocation.**

.....

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**36 Conduct of trial by commission of convocation.**

.....

**37 Proceedings in Upper House of Convocation upon finding of commission of convocation.**

.....

**PART VI**

**CONDUCT OF PROCEEDINGS AGAINST DEACONS, PRIESTS OR BISHOPS FOR OFFENCES UNDER THE MEASURE INVOLVING MATTER OF DOCTRINE, RITUAL OR CEREMONIAL**

*Scope of Part VI*

**38 Scope of Part VI.**

The provisions of this Part of this Measure shall have effect for the purpose of regulating proceedings against a deacon, priest, bishop or archbishop against whom a complaint has been laid in accordance with the provisions of Part III of this Measure alleging the commission of an offence against the laws ecclesiastical involving matter of doctrine, ritual or ceremonial.

*Procedure under Part VI after Laying of Complaint*

**39 Duty of diocesan upon the making of a complaint against a deacon or priest.**

- (1) Upon a complaint under this Part of this Measure against a priest or deacon being duly laid and verified the bishop of the diocese before whose registrar it is laid shall take it into consideration and as soon as may be after a copy thereof has been served on the accused, shall afford to the accused and the complainant an opportunity of being interviewed in private by him either separately or together as the bishop thinks fit with respect to the matter of the complaint, and thereafter shall either:—
  - (a) decide that no further step be taken under this Part of this Measure in the matter of the complaint; or
  - (b) refer the complaint for inquiry under the following provisions of this Part of this Measure.
- (2) Where, in pursuance of the foregoing subsection, the bishop decides that no further step be taken in the matter of the complaint he shall forthwith give notice of his decision to the complainant and to the accused and thereafter no further action shall be taken by any person in regard thereto.

**40 Duty of archbishop upon the making of a complaint against a bishop.**

Upon a complaint under this Part of this Measure against a bishop being laid and verified the archbishop of the relevant province shall have the same powers and duties in relation thereto as are conferred and imposed upon a diocesan bishop by the last

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preceding section in regard to a complaint against a priest or deacon and, according to his decision, the like consequences shall ensue as are referred to in such section.

**41 Complaint against an archbishop to stand referred for inquiry.**

A complaint against an archbishop of the nature referred to in section thirty-eight of this Measure duly laid and verified under this Part of this Measure shall thereupon stand referred for inquiry under the following provisions of this Part of this Measure.

**42 Inquiry into complaint by committee of convocation.**

- (1) Where, by virtue of the foregoing provisions of this Part of this Measure, a complaint is referred, or stands referred, for inquiry, the following provisions shall have effect.
- (2) The reference shall be to a committee whose duty it shall be to inquire into the complaint for the purpose of deciding whether there is a case to answer in respect of which the accused should be put on trial upon articles by the Court of Ecclesiastical Causes Reserved, for any offence under this Measure involving matter of doctrine, ritual or ceremonial.
- (3) The committee shall—
  - (a) where the accused is a priest or deacon, consist of—
    - (i) one member of the Upper House of the Convocation of the relevant province, appointed by the archbishop;
    - (ii) two members of the Lower House of that Convocation, appointed by the prolocutor of that House; and
    - (iii) two chancellors of dioceses in that province, appointed by the Dean of the Arches and Auditor:
  - (b) where the accused is an archbishop or a bishop, consist of—
    - (i) such even number of persons, to be appointed by the Upper House of the Convocation of the relevant province, as that House shall determine; and
    - (ii) the Dean of the Arches and Auditor or a deputy who is nominated by him and who shall make a declaration that he is a communicant being a person holding or having held high judicial office, or a [F74] person who has a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990,];

and the determination of any matter before the committee shall be according to the opinion of the majority of the members thereof.

- (4) Either the accused or the complainant may, if he so desires, be assisted or represented by a friend or adviser at any meeting of such a committee at which he is invited to be present.
- (5) The complainant and the accused may lay before the committee such evidence as they shall think fit and such evidence shall be given by affidavit but the committee shall on the application of either party and may on its own motion request the person making such affidavit to attend the inquiry for the purpose of answering such questions on oath as may be put to him by the committee or by or on behalf of any party, and unless such person shall attend the inquiry for that purpose his affidavit shall be disregarded: Provided that the evidence of any person who is incapable of giving evidence on oath shall be given orally at the inquiry.

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- (6) If the committee, after making due inquiry into the complaint, decide that there is a case for the accused to answer in respect of which he should be put on trial upon articles by the Court of Ecclesiastical Causes Reserved for any such offence as aforesaid, they shall declare their decision, specifying the offence.
- (7) Where the committee decide as mentioned in the last foregoing subsection, but are of opinion on consideration of the evidence, of any statement made to them by the accused and of any representations made to them by the bishop of the diocese where the accused is a deacon or a priest—
- (a) that the offence charged by the complaint is too trivial to warrant further proceedings thereon; or
  - (b) that the offence was committed upon extenuating circumstances; or
  - (c) that further proceedings on the complaint would not be in the interests of the Church of England;
- they may dismiss the complaint and report to the Convocation of the relevant province that they have dismissed it and the ground on which they have taken that course.
- (8) If the committee, after making due inquiry into the complaint, decide that there is no case for the accused to answer, they shall declare their decision.
- (9) The committee shall reduce their decision, or decisions, to writing and shall send a copy thereof to the accused and to the Upper House of the Convocation of the relevant province and in the case of an accused archbishop, to the archbishop of the other province.
- (10) Where the committee dismiss a complaint and report their dismissal of it under subsection (7) of this section or declare that there is no case for the accused to answer under subsection (8) of this section, no further step shall be taken in the matter of the complaint.

#### Textual Amendments

**F74** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 18\(1\)](#)

### 43 Appointment, of person to promote complaint.

Where a committee inquiring into a complaint declare, in pursuance of subsection (6) of the last foregoing section, their decision that there is a case for the accused to answer and do not dismiss the same under subsection (7) of that section, the Upper House of the Convocation of the relevant province shall nominate a fit person to promote a complaint against the accused in the Court of Ecclesiastical Causes Reserved:

Provided that when the accused is an archbishop the Upper House of the Convocation of the relevant province shall for this purpose meet under the presidency of the senior diocesan bishop of that province and the accused archbishop shall take no part in the proceedings of the said meeting.

### 44 Contents of articles.

Where a person is prosecuted by virtue of the foregoing provisions of this Part of this Measure, the articles may with the leave of the committee who inquired into the complaint or of the Court of Ecclesiastical Causes Reserved include, either in substitution for or in addition to, particulars of the offence or offences specified by

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that committee, particulars of any other offence founded on evidence disclosed in the course of the committee's inquiry, being particulars of an offence involving matter of doctrine, ritual or ceremonial.

#### **45 Conduct of trial under Part VI.**

- (1) The following provisions shall have effect with respect to the trial of a person by the Court of Ecclesiastical Causes Reserved under this Part of this Measure, namely:—
- (a) the procedure at the trial shall, so far as circumstances admit and subject to any rules which may be prescribed, be the same as at the trial of a person by a court of assize exercising criminal jurisdiction;
  - (b) the accused shall be entitled to be supplied with a copy of the articles;
  - (c) the rules as to the admissibility of evidence and as to whether a witness is competent or compellable to give evidence shall be the same as those observed at the trial of a person by such a court of assize;
  - (d) the registrar before whom the complaint was laid shall give not less than fourteen clear days' notice of the sittings of the court to the promoter thereof and to the accused and at any sitting the court may proceed in the absence of the accused if satisfied that he was given proper notice of the sitting;
  - (e) the court, if satisfied that it is in the interests of justice so to do, may give directions that during any part of the proceedings such person or persons as the court may determine shall be excluded;
  - (f) the determination of any matter before the court shall be according to the opinion of the majority of the members thereof;
  - (g) if the accused shall be found guilty of an offence charged, the court shall decide such censure therefor as is warranted by the following provisions of this Measure;
  - (h) the censure shall be reduced to writing by the court, shall be pronounced in open court by the person presiding over the court and shall not be invalid by reason only that it is not pronounced in the presence of the accused.
- (2) For the purposes of this section it shall be the duty of the Upper Houses of the Convocations of Canterbury and York jointly to draw up, with the approval of the Lower Houses of those Convocations, and from time to time to revise, with the like approval, a panel of persons each of whom shall be an eminent theologian or an eminent liturgiologist, and the Court of Ecclesiastical Causes Reserved shall, when trying a person sit with not less than three nor more than five advisers selected by the Dean of the Arches and Auditor from amongst the members of the panel.
- (3) In the exercise of its jurisdiction under this Measure the Court of Ecclesiastical Causes Reserved shall not be bound by any decision of the Judicial Committee of the Privy Council in relation to matter of doctrine ritual or ceremonial.

## **PART VII**

### **OTHER PROCEEDINGS**

#### **46 Proceedings in consistory court not falling within Part IV.**

- (1) Proceedings in the consistory court of a diocese <sup>F75</sup>... shall be heard and disposed of by the chancellor of the diocese:

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Provided that proceedings in a cause of faculty may be heard and disposed of by the bishop of the diocese alone or with the chancellor if, and in so far as, provision in that behalf is made in the letters patent by which the chancellor of the diocese is appointed.

- (2) <sup>F76</sup>... Proceedings to which this section applies other than those falling within paragraph (b) of subsection (1) of section six of this Measure shall be instituted and conducted in such manner as may be prescribed.

#### Textual Amendments

- F75** Words in s. 46(1) repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops
- F76** Words in s. 46(2) repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops

#### Modifications etc. (not altering text)

- C6** S. 46(1) modified (1.7.2001) by [1999 No. 2, ss. 3\(3\)](#); [Instrument dated 21.6.2001 made by the Archbishops of Canterbury and York](#)

### 47 Proceedings in Arches and Chancery Courts.

<sup>F77</sup>[( 1) Proceedings in the Arches Court of Canterbury or the Chancery Court of York [<sup>F78</sup>under this Measure shall be heard and disposed of] by the Dean of the Arches and Auditor and two diocesan chancellors designated by him for the purposes of the case.]

[<sup>F79</sup>(1A) The Dean of the Arches and Auditor sitting alone in either of the said Courts has jurisdiction to make interlocutory orders, including any directions under section 7(4) of this Measure.]

- (2) [<sup>F80</sup>Proceedings under this Measure] in the said Court shall be instituted and conducted in such manner as may be prescribed.

#### Textual Amendments

- F77** S. 47(1) substituted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), **Sch. 4**, para. 8(1) (with s. 31(6)); [Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York](#)
- F78** Words in s. 47(1) substituted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 1 para. 6(a)** (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops
- F79** S. 47(1A) inserted (1.4.2015) by [Care of Churches and Ecclesiastical Jurisdiction \(Amendment\) Measure 2015 \(No. 1\)](#), **ss. 10**, 11(2); [S.I. 2015/593](#), art. 2
- F80** Words in s. 47(2) substituted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 1 para. 6(b)** (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops

### 48 Proceedings before Commissions of Review.

(1) Subject to the following provisions of this section all proceedings before a Commission of Review shall be instituted and conducted in such manner as may be prescribed.

(2) In order to give assistance to any Commission of Review in reviewing any decision of the Court of Ecclesiastical Causes Reserved involving a question of doctrine the Upper

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Houses of the Convocations of the Provinces of Canterbury and of York shall jointly appoint a panel of persons consisting of members of either of the Upper Houses and also if thought fit of theologians who are not members of either of the Upper Houses in such numbers as the Upper Houses may jointly determine.

- (3) When any review by a Commission of Review involves a question of doctrine the Commission shall request five persons selected by it from the panel appointed under subsection (2) of this section to sit with it as advisers and to give such assistance on the matters of doctrine involved in the review as the Commission may require.
- (4) The judgment of the Commission shall be according to the opinion of the majority of the members thereof and each member of the Commission shall state his own opinion on the question under review.
- (5) In the exercise of its jurisdiction under this Measure a Commission of Review shall not be 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 previous Commission of Review shall be binding on a Commission subsequently appointed in any matter which shall, by virtue of this Measure, be within the jurisdiction of such Commission except in regard to a matter on which new information or evidence is adduced which was not before the Commission on the previous occasion.

## PART VIII

### CENSURES

#### 49 Censures.

- (1) The censures to which a person found guilty of an offence under this Measure renders himself liable are the following, namely,—
  - (a) deprivation, that is to say, removal from any preferment which he then holds and disqualification from holding any other preferment except as hereinafter provided, and if he holds no preferment at the time the censure is pronounced, disqualification from holding any preferment in the future except as hereinafter provided;
  - (b) inhibition, that is to say, disqualification for a specified time from exercising any of the functions of his Order;
  - (c) suspension, that is to say, disqualification for a specified time from exercising or performing without leave of the bishop any right or duty of or incidental to his preferment or from residing in the house of residence of his preferment or within such distance thereof as shall be specified in the censure;
  - (d) monition that is to say an order to do or refrain from doing a specified act;
  - (e) rebuke.
- (2) Where a censure of suspension or inhibition has been pronounced against any person, he shall not be readmitted to his benefice or permitted to exercise the functions of his order unless he satisfies the bishop (or, where the person is himself a bishop, the Upper House of the Convocation of the relevant province) of his good conduct during the term of his suspension or inhibition.



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- (3) [<sup>F81</sup> In proceedings under this Measure] no censure more severe than monition shall be imposed unless the Court is satisfied that the accused has already been admonished on a previous occasion in respect of another offence of the same or substantially the same nature.
- (4) No censure of deprivation on any archbishop or bishop or on any person in respect of any preferment the right to appoint to which is vested in Her Majesty (not being a parochial benefice) shall have effect unless and until Her Majesty by order in Council shall confirm the same.
- (5) Where by virtue of any censure of deprivation a bishop, priest or deacon is disqualified from holding any preferment, the disqualification shall not extend to a preferment to which the bishop of a diocese, with the consent of the archbishop of the relevant province and in the case of a priest or deacon of the bishop of the diocese in which the proceedings were instituted, shall appoint him, and shall cease upon the occasion of any such appointment if the archbishop when consenting thereto shall so direct.
- (6) Not more than one censure shall be imposed in respect of any one offence save that when a censure of suspension is pronounced a censure of inhibition may be pronounced for the same period.

#### Textual Amendments

**F81** Words in s. 49(3) substituted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), [Sch. 1 para. 7](#) (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops

## 50 Power of bishop to depose priest or deacon from Holy Orders.

When a censure of deprivation is pronounced [<sup>F82</sup> in pursuance of proceedings under this Measure] on any priest or deacon the bishop of the diocese may by sentence without any further legal proceedings depose him from Holy Orders and the sentence of deposition shall be recorded in the registry of the diocese:

Provided that before deposing him from Holy Orders the bishop shall serve on the priest or deacon concerned and on the provincial registrar of the relevant province a written notice in the prescribed form of his intention so to depose him and within the period of one month from the date of such notice the said priest or deacon may appeal to the archbishop of the relevant province or, if the diocesan be the archbishop, to the archbishop of the other province in such manner as may be prescribed and the diocesan shall not proceed so to depose him until the time for the making of such appeal has passed or, in the event of an appeal being made, unless or until it shall have been dismissed.

#### Textual Amendments

**F82** Words in s. 50 inserted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), [Sch. 1 para. 8](#) (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops

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## 51 Power to depose archbishop or bishop from Holy Orders.

Where a censure of deprivation is pronounced in pursuance of proceedings under this Measure on an archbishop or bishop the Upper House of Convocation of the relevant province may by resolution depose him from Holy Orders:

Provided that before any motion for such a resolution is put to the Upper House a notice in the prescribed form shall be served on the archbishop or bishop concerned and the House shall consider any written representations made to it by such archbishop or bishop within one month of the service of such notice and afford him an opportunity of being heard before it personally.

## 52 Effect of deposition.

When a person is deposed [<sup>F83</sup>under this Measure] from Holy Orders the like consequences shall ensue as by paragraph (3) of section four of the <sup>M6</sup>Clerical Disabilities Act 1870 would ensue, if, more than six months before the day on which such disqualification takes effect, he had executed a deed of relinquishment in the form set out in the Second Schedule to that Act and done the things prescribed by section three thereof and the bishop had on that day caused the deed to be registered in the registry of his diocese.

### Textual Amendments

**F83** Words in s. 52 inserted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 1 para. 9** (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops

### Marginal Citations

**M6** [1870 c. 91](#).

## 53 Restoration on pardon.

Where by virtue of anything done under this Measure an archbishop, bishop or other clergyman is deprived or deposed his incapacities shall cease if he receives a free pardon from the Crown, and he shall be restored to any preferment he previously held if it has not in the meantime been filled.

## <sup>F84</sup>54 Disobedience to censure.

### Textual Amendments

**F84** [S. 54](#) repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops

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**F85 PART IX**

**DEPRIVATION CONSEQUENT UPON CERTAIN JUDGMENTS,  
ORDERS OR DECREES OF SECULAR COURTS**

**Textual Amendments**

**F85** Pt. 9 repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), [Sch. 2](#) (with s. 47); [S.I. 2005/6](#), Instrument made by Archbishops

**55 Deprivation of priest or deacon following certain proceedings in secular courts.**

.....

**56 Deprivation of bishop or archbishop following certain proceedings in secular courts.**

.....

**57 Consequences of declarations under this Part of this Measure.**

.....

**PART X**

**COSTS**

**58 Payment of costs of bishop and promoter by Commissioners.**

The Commissioners may at their absolute discretion pay out of their general fund the whole or contribute any part of costs and expenses which have been incurred by—

- (a) any archbishop or bishop (other than an archbishop or bishop himself accused of an offence cognisable under section fourteen of this Measure in relation to the costs and expenses incurred as a result of such accusation)—
  - (i) in or in relation to or directly or indirectly arising out of legal proceedings authorised, taken or contemplated in any court or before any commission, committee or examiner (and notwithstanding that proceedings are not eventually taken) by any person in respect of any offence cognisable under section fourteen of this Measure, or
  - (ii) in relation to any declaration made or to be made in accordance with the provisions of Part IX of this Measure; and
- (b) any person nominated under the provisions of this Measure to promote proceedings in respect of any such offence as is mentioned in the foregoing subsection:

Provided that the Commissioners before paying the whole or any part of any costs and expenses in pursuance of this section shall first be satisfied that they are reasonable in amount <sup>F86</sup>and

- (c) any bishop or person designated by a bishop to act on his behalf for the purposes of the Care of Cathedrals (Supplementary Provisions) Measure 1994

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in or in relation to or directly or indirectly arising out of legal proceedings authorised, taken or contemplated in the Vicar-General’s court under section 4 of that Measure:]

#### Textual Amendments

**F86** S. 58(c) and the word “and” immediately preceding it inserted (1.10.1994) by 1994 No. 2, s. 8, **Sch. para. 3**; Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

#### Modifications etc. (not altering text)

**C7** S. 58 applied (with modifications) (1.1.2006) by Clergy Discipline Measure 2003 (No. 3), **ss. 35(1), 48(2)** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

59 ..... **F87**

#### Textual Amendments

**F87** S. 59 repealed by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 14(2), **Sch. 3**

### 60 Powers of courts and commissions in regard to costs.

- (1) [<sup>F88</sup>Subject, in the case of any party to whom legal aid is granted under [<sup>F89</sup>the Church of England (Legal Aid) Measure 1994], to rules made under section 4 of that Measure]Any court or commission having jurisdiction under this Measure [<sup>F90</sup>and the Vicar-General’s court of each of the provinces of Canterbury and York in proceedings instituted under section four of the Care of Cathedrals (Supplementary Provisions) Measure 1994] shall have power at any stage of the proceedings to order any party to give security for costs.
- (2) Any court [<sup>F91</sup>(including a Vicar-General’s court)], commission, committee or examiner shall have power at its discretion to make an order for payment of taxed costs against any party and may take into account the fact that the whole or part of the costs of a complainant or accused person are being or have been met out of the [<sup>F92</sup>Fund maintained under [<sup>F93</sup>the Church of England (Legal Aid) Measure 1994]].
- (3) An award of costs to any person under the last foregoing subsection may direct that, instead of taxed costs, that person shall be entitled—
  - (a) to a proportion specified in the direction of the taxed costs or to the taxed costs from or up to a stage of the proceedings so specified; or
  - (b) to a gross sum so specified in lieu of taxed costs.
- (4) In this section the expression “costs” includes fees, charges, disbursements, expenses and remuneration and the expression “taxed costs” [<sup>F94</sup>in relation to costs incurred by any person to whom legal aid is granted under the [<sup>F95</sup>Church of England (Legal Aid) Measure 1994], means costs taxed or assessed in accordance with rules made under section 4 of that Measure and in relation to costs incurred by any other person.] means costs taxed by a registrar in the prescribed manner.
- [<sup>F96</sup>(5) Where an order for payment of taxed costs has been made under subsection (2) of this section any party to the proceedings may appeal to the chancellor of the diocese

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in which the proceedings took place against the registrar’s taxation, and on any such appeal the chancellor may confirm or vary the registrar’s taxation.

- (6) An appeal under subsection (5) of this section shall be lodged and conducted in such manner as may be prescribed.]

#### Textual Amendments

- F88** Words inserted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 14(1), **Sch. 2 para. 1(a)**
- F89** Words in s. 60(1) substituted (1.9.1994) by 1994 No. 3, s. 7(2), **Sch. 2 para. 1(a)** (with s. 5(1); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F90** Words in s. 60(1) inserted (1.10.1994) by 1994 No. 2, s. 8, **Sch. para. 4(a)**; Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F91** Words in s. 60(2) inserted (1.10.1994) by 1994 No. 2, s. 8, **Sch. para. 4(b)**; Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F92** Words substituted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 18(1), **Sch. 2 para. 1(b)**
- F93** Words in s. 60(2) substituted (1.9.1994) by 1994 No. 3, s. 7(2), **Sch. 2 para. 1(b)** (with s. 5(1)); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F94** Words inserted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 14(1), **Sch. 2 para. 1(c)**
- F95** Words in s. 60(4) substituted (1.9.1994) by 1994 No. 3, s. 7(2), **Sch. 2 para. 1(c)** (with s. 5(1)); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F96** S. 60(5)(6) inserted (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 8(1), **Sch. 4 para. 9** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York

#### Modifications etc. (not altering text)

- C8** S. 60 applied (with modifications) (1.1.2006) by Clergy Discipline Measure 2003 (No. 3), **ss. 35(1), 48(2)** (with s. 47); S.I. 2005/6, Instrument made by Archbishops
- C9** S. 60(3) applied by S.I. 1990/2335, **rule 9(4)**
- C10** S. 60(3) applied (1.1.2008) by The Care of Cathedrals Rules 2006 (S.I. 2006/1941), rules 1(2), **26(5)**

## 61 Recovery of costs.

- (1) Where an order or direction for the payment of costs is made against any person under the last foregoing section such costs may be recovered by the person in whose favour the order for payment of costs is made by proceedings in the county court of the district in which the award or direction was made or, if the sum recoverable exceeds the amount which under any enactment for the time being in force is recoverable in the county court in respect of a contract debt, then by proceedings in the High Court of Justice, in either case in all respects as if the said sum was a contract debt payable by the person against whom the order was made.
- (2) In any proceedings in a civil court for recovery of costs a certificate purporting to be signed by the registrar of the diocese or province within which the relevant award or direction for payment of costs was made, stating that the sum specified in the certificate is the sum due to be paid by the person mentioned therein pursuant to an order or direction for payment of costs under the last foregoing section, shall be conclusive evidence of the facts so certified.

*Status: Point in time view as at 12/01/2016.*

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#### Modifications etc. (not altering text)

- C11** S. 61 applied by S.I. 1990/2335, **rule 9(4)**
- C12** S. 61 applied (with modifications) (1.1.2006) by Clergy Discipline Measure 2003 (No. 3), **ss. 35(1), 48(2)** (with s. 47); S.I. 2005/6, Instrument made by Archbishops
- C13** S. 61 applied (1.1.2008) by The Care of Cathedrals Rules 2006 (S.I. 2006/1941), rules 1(2), **26(5)**

## 62 Payment of expenses of courts, &c. by Central Board.

- (1) Save in so far as the same shall be payable by any other person under this Measure or any order or rule for the time being in force, the Central Board shall pay the costs and expenses of all courts, commissions, committees and examiners constituted or appointed under this Measure for the purpose of proceedings in respect of offences cognisable under section fourteen thereof [<sup>F97</sup> and of the Vicar-General's court for the purpose of proceedings instituted under section four of the Care of Cathedrals (Supplementary Provisions) Measure 1994]:  
Provided that the Central Board before paying the whole or any part of any costs and expenses in pursuance of this section shall first be satisfied that they are reasonable in amount.
- (2) The Commissioners shall have power from time to time at their absolute discretion to contribute out of their general fund such sums as they shall think fit in relief of the liability of the [<sup>F98</sup>Archbishops' Council] under the foregoing subsection.

#### Textual Amendments

- F97** Words in s. 62 inserted (1.10.1994) by 1994 No. 2, s. 8, **Sch. para. 5**; Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F98** Words in s. 62(2) substituted (1.1.2008) by National Institutions of the Church of England (Transfer of Functions) Order 2007 (S.I. 2007/1556), art. 1(1), **Sch. para. 2(a)** (with art. 3)

#### Modifications etc. (not altering text)

- C14** S. 62 applied (with modifications) (1.1.2006) by Clergy Discipline Measure 2003 (No. 3), **ss. 35(1), 48(2)** (with s. 47); S.I. 2005/6, Instrument made by Archbishops
- C15** S. 62(1) transfer of functions (1.1.2008) by National Institutions of the Church of England (Transfer of Functions) Order 2007 (S.I. 2007/1556), arts. 1(1), **2** (with art. 3)

## [<sup>F99</sup>63 Fees payable in or in connection with proceedings under this Measure.

The fees to be demanded, taken and received by any legal officer as remuneration for the performance by him of the duties of his office in or in connection with any proceedings or contemplated proceedings or otherwise under or arising out of the provisions of this Measure shall be fixed in manner provided by the [<sup>F100</sup>Ecclesiastical Fees Measure 1986]]

#### Textual Amendments

- F99** S. 63: By 1994 No. 2, s. 8, **Sch. para. 6** it is provided (1.10.1994) that after the words "under this measure" there shall be inserted the words "or the Care of Cathedrals (Supplementary Provisions) Measure 1994"; Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

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**F100** Words substituted by [Ecclesiastical Fees Measure 1986 \(No. 2, SIF 21:1\), s. 11\(2\)](#)

**Modifications etc. (not altering text)**

**C16** [S. 63](#) applied (with modifications) (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\), ss. 35\(1\), 48\(2\)](#) (with [s. 47](#)); [S.I. 2005/6](#), Instrument made by Archbishops

## PART XI

### RULE COMMITTEE

#### [<sup>F101</sup>64 The Rule Committee.

(1) There shall be a Rule Committee which shall consist of the following persons, namely:

- The Lord Chancellor, who shall be the Chairman of the Committee;
- The Archbishop of Canterbury or a member of the Upper House of the Convocation of his Province appointed by him;
- The Archbishop of York or a member of the Upper House of the Convocation of his Province appointed by him;
- Two persons appointed by the Lord Chancellor of whom at least one shall hold, or have held, high judicial office;
- The Dean of the Arches and Auditor;
- The Prolocutor of the Lower House of the Convocation of Canterbury or a member of that House appointed by him;
- The Prolocutor of the Lower House of the Convocation of York or a member of that House appointed by him;
- The provincial registrars of the provinces of Canterbury and York;
- One chancellor and one diocesan registrar from each province to be appointed by the archbishop of that province.

(2) Any five members of the Rule Committee, one of whom shall be the Lord Chancellor or one of the persons appointed by him, may exercise all the powers of the Rule Committee.

(3) In the absence of the Lord Chancellor from any meeting of the Rule Committee, the chair shall be taken by a person who holds or has held high judicial office appointed a member of the Committee by the Lord Chancellor.]

**Textual Amendments**

**F101** [S. 64](#) repealed (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\), s. 32\(2\), Sch.8](#) (with [s. 31\(6\)](#)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York

#### [<sup>F102</sup>65 Functions of the Rule Committee.

.....

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### Textual Amendments

**F102** S. 65 repealed (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 32(2), Sch. 8 (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York

## PART XII

### MISCELLANEOUS AND GENERAL

#### 66 Interpretation.

- (1) In this Measure unless the context otherwise requires the following expressions have the meanings hereby assigned to them respectively, namely:—

“authorised complainant” means a person authorised by a bishop to lay a complaint under Part III of this Measure or, in the case of proceedings against a bishop, a person authorised by the archbishop of the province;

“benefice” includes all rectories with cure of souls vicarages perpetual curacies endowed public chapels and parochial chapelries and chapelries or districts belonging or reputed to belong or annexed or reputed to be annexed to any church or chapel or districts formed for ecclesiastical purposes by virtue of statutory authority and includes benefices in the patronage of the Crown or of the Duchy of Cornwall but does not extend to any Royal peculiar nor to any cathedral or capitular preferment or dignity, nor to any chapel belonging to any college school hospital inn of court asylum or public or charitable institution nor to any private chapel;

**F103**

...

“the Commissioners” means the Church Commissioners for England;

“communicant” means a person who has received communion according to the use of the Church of England or of a church in communion therewith at least once within the twelve months preceding the date of his declaration that he fulfils that requirement, or if a declaration is not required of him, at least once within the twelve months preceding the date upon which he is offered the appointment or requested to act in a capacity for which that qualification is required;

“diocese” means a diocese in the province of Canterbury or a diocese . . . **F104**; in the province of York and “diocesan” shall be construed accordingly;

[**F105**“high judicial office” means such office within the meaning of Part 3 of the Constitutional Reform Act 2005 or membership of the Judicial Committee of the Privy Council;]

“preferment” includes an archbishopric, a bishopric, archdeaconry, dignity or office in a cathedral or collegiate church, and a benefice, and every curacy, lectureship, readership, chaplaincy, office or place which requires the discharge of any spiritual duty;

“prescribed” means prescribed by rules made under [**F106**section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991];

“relevant province” in relation to—

- (a) a House of Convocation;



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- (b) a diocese comprised in a province;
- (c) a court having jurisdiction in a province; and
- (d) a person holding any office or preferment or residing in any such diocese or province at any time;

means, according to the context, the province of Canterbury or the province of York as the case may be.

[<sup>F107</sup> “disciplinary tribunal”, “president of tribunals” and “provincial panel” have the same meanings as in the Clergy Discipline Measure 2003.]

- (2) In this Measure, except and where the context otherwise requires, references to the consistory court of a diocese and to the chancellor of a diocese shall, in their application to the diocese of Canterbury, be construed as references to the commissary court thereof and to the commissary general of such court respectively.
- (3) For the purposes of this Measure an extra-diocesan place (including any place exempt or peculiar other than a Royal Peculiar) which is surrounded by one diocese shall be deemed to be situate within that diocese, and an extra-diocesan place which is surrounded by two or more dioceses shall be deemed to be situate within such one of them as the archbishop of the relevant province may direct.
- (4) Nothing in this section shall prejudice or affect the provisions of subsection (2) of section six of this Measure.

#### Textual Amendments

- F103** Words in s. 66 omitted (1.1.2008) by virtue of [National Institutions of the Church of England \(Transfer of Functions\) Order 2007 \(S.I. 2007/1556\)](#), art. 1(1), **Sch. para. 2(b)** (with art. 3)
- F104** Words repealed by virtue of s. 85 of this Measure and Church Act 1969 (an Act of Tynwald)
- F105** Words in s. 66(1) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), **Sch. 17 para. 16(3)**; S.I. 2009/1604, art. 2(e)
- F106** Words in s. 66(1) substituted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 8(1), **Sch. 4 para.10** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F107** Words in s. 66(1) inserted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 1 para. 10** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

## 67 Rules for determining seniority of diocesan bishops.

For the purposes of this Measure the seniority of diocesan bishops (other than archbishops) <sup>F108</sup>... shall be determined by reference to the length of time that each of them has held office as diocesan in either province without interruption from any cause.

#### Textual Amendments

- F108** Words in s. 67 omitted (1.1.2006) by virtue of [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 1 para. 11** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

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<sup>F109</sup> **68 Exercise of powers of diocesans during vacation of sees.**

.....

**Textual Amendments**

**F109** S. 68 repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

**69 Criminal proceedings in ecclesiastical courts to be taken only in accordance with this Measure.**

No proceedings by way of a criminal suit, other than those authorised by [<sup>F110</sup> Part VI] of this Measure, shall be instituted against a person in the consistory court of a diocese or in the Court of Ecclesiastical Causes Reserved, and no proceedings so authorised shall be instituted except in accordance with those Parts of this Measure:

<sup>F111</sup> ...

**Textual Amendments**

**F110** Words in s. 69 substituted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 1 para. 12** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

**F111** Words in s. 69 repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

**70 Nominated persons to have exclusive right to promote complaint.**

A person nominated under Part <sup>F112</sup>... VI of this Measure to promote a complaint against an accused person shall have the right to do so to the exclusion of all others.

**Textual Amendments**

**F112** Words in s. 70 repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

**71 Performance of ecclesiastical duties during suspension or inhibition.**

- (1) Where a censure of suspension or inhibition is pronounced against an archbishop the archbishop of the other province shall perform the functions which the archbishop against whom the censure of suspension or inhibition has been pronounced is unable to perform on account of such censure.
- (2) Where a censure of suspension or inhibition is pronounced against a diocesan bishop, the archbishop of the relevant province may appoint another bishop to perform during the period of suspension or inhibition the functions the performance of which the diocesan bishop against whom the censure of suspension or inhibition has been pronounced is unable to perform on account of such censure.
- (3) Where a censure of suspension or inhibition is pronounced against a suffragan bishop, the diocesan bishop by whom he is commissioned may appoint another bishop to perform during the period of suspension or inhibition the functions which the suffragan

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bishop against whom the censure of suspension or inhibition has been pronounced is unable to perform on account of such censure.

- (4) When a censure of suspension or inhibition is pronounced against any priest or deacon, it shall be lawful for the bishop in whose diocese such person holds preferment; and in all such cases the bishop may assign such part of [<sup>F113</sup>any one or more of the following, that is to say, the guaranteed annuity payable in respect of the benefice under section 1 of the <sup>M7</sup>Endowments and Glebe Measure 1976, the personal grant, if any, to which such person is entitled under section 2 of that Measure and the profits of the benefice, as he thinks fit and may, if necessary, sequester the said profits for the payment of the part thereof so assigned.]

#### Textual Amendments

**F113** Words substituted by [Endowments and Glebe Measure 1976 \(No. 4\), s. 49\(2\) Sch. 5 para. 2](#)

#### Modifications etc. (not altering text)

**C17** [S. 71](#) applied (with modifications) (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\), ss. 35\(1\), 48\(2\)](#) (with [s. 47](#)); [S.I. 2005/6](#), Instrument made by Archbishops

#### Marginal Citations

**M7** [1976 No. 4](#)

## 72 Occupation of parsonage house by person appointed by bishop.

- (1) A bishop who has appointed a person to perform the duties of any benefice under subsection (4) of section seventy-one of this Measure may require such person to reside in the parsonage house belonging thereto, and may assign to him the use of such parsonage house, together with the offices, gardens and appurtenances thereto belonging, or any part or parts thereof, without payment of any rent.
- (2) A person residing in the parsonage house under the provisions of this section shall be liable to pay the rates payable in respect of such house, . . . <sup>F114</sup>, and any sequestrator appointed during any suspension or inhibition under this Measure shall have power to deduct from the stipend of such person any payments for which he shall be liable under this subsection.
- (3) The bishop shall have power in any case in which possession of the premises allocated to any person under the provisions of this section is not given up to him, and until such possession shall be given up, to direct that the profits of the benefice arising from the sequestration thereof under this Measure be applied subject to the provisions thereof as if the same arose under a sequestration for non-residence.
- (4) A right of residence and any other right vested in a person under the provisions of this section shall determine upon the determination of his appointment.

#### Textual Amendments

**F114** Words repealed by [Repairs of Benefice Buildings Measure 1972 \(No. 2\), Sch. 2](#)

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#### **Modifications etc. (not altering text)**

**C18** S. 72 applied (with modifications) (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\), ss. 35\(1\), 48\(2\)](#) (with s. 47); S.I. 2005/6, Instrument made by Archbishops

### **73 Suspension of censure pending appeal.**

In any case in which pursuant to the provisions of this Measure, an appeal is lodged against a judgment order or decree of any court or commission constituted under this Measure in proceedings charging an offence or claiming a penalty or forfeiture against a clergyman, the censure or award of the court or commission from whose judgment order or decree the appeal is made shall be suspended until the appeal is determined, but an appeal shall not affect an inhibition *pendente lite* under section seventy-seven of this Measure.

#### **Modifications etc. (not altering text)**

**C19** S. 73 applied (with modifications) (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\), ss. 35\(1\), 48\(2\)](#) (with s. 47); S.I. 2005/6, Instrument made by Archbishops

### **74 Restrictions during a period of suspension or inhibition.**

- (1) In any case in which by reason of a censure pronounced against him a person is suspended or inhibited under this Measure [<sup>F115</sup>for a specified time] from discharging all or any of the duties attached to any office held by him:—
  - (a) he shall not interfere with any other person who may be appointed to discharge any of the said duties;
  - (b) subject to the provisions of the following subsection he shall not reside in or occupy any house of residence belonging to his office; and
  - (c) he shall not be liable under any penalty or forfeiture for non-residence.
- (2) In the case of an incumbent of a parochial benefice the bishop may for special reasons permit him to reside in or occupy such house of residence or some part thereof.
- (3) In the case of such an incumbent, subject to any direction to the contrary given by the bishop, he shall not receive any part of the income of the benefice while he remains resident within a distance of ten miles from the parish or other principal church of the parish or other area in which, prior to the commencement of the period of inhibition, he had the cure of souls.

#### **Textual Amendments**

**F115** Words in s. 74(1) inserted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\), s. 48\(2\), Sch. 1 para. 13](#) (with s. 47); S.I. 2005/6, Instrument made by Archbishops

#### **Modifications etc. (not altering text)**

**C20** S. 74 applied (with modifications) (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\), ss. 35\(1\), 48\(2\)](#) (with s. 47); S.I. 2005/6, Instrument made by Archbishops

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## 75 Provisions as to lapse on avoidance of preferment.

Where by virtue of anything in or done under this Measure any preferment is vacant the time for lapse shall run from the date on which the prescribed notice of the vacancy is given.

### Modifications etc. (not altering text)

**C21** S. 75 applied (with modifications) (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), **ss. 35(1), 48(2)** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

## 76 Rights of patronage during suspension or inhibition.

- (1) In any case in which by virtue of a censure pronounced against him a person is suspended or inhibited under this Measure [<sup>F116</sup>for a specified time] from discharging all or any of the duties attaching to his preferment, any right of patronage vested in him by virtue of his preferment shall, during the period of suspension or inhibition, and subject to the provisions of the following subsection, vest in the person entitled to appoint to such preferment and so that in the case of a diocesan bishop, any such right of patronage shall vest in the archbishop of the relevant province, and in the case of an archbishop, shall vest in the archbishop of the other province.
- (2) In any case in which an incumbent is himself the patron of his benefice, the right of patronage of such benefice shall, so long as the period of suspension or inhibition remains in force, vest in the archbishop of the relevant province.

### Textual Amendments

**F116** Words in s. 76(1) inserted (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 1 para. 14** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

### Modifications etc. (not altering text)

**C22** S. 76 applied (with modifications) (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), **ss. 35(1), 48(2)** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

## <sup>F117</sup>77 Inhibition pendente lite.

.....

### Textual Amendments

**F117** S. 77 repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

## 78 Recording of declarations, resolutions and censures.

Any declaration or resolution made by a bishop, or by an archbishop, or by an Upper House of Convocation or any censure pronounced by any court, pursuant to the provisions of this Measure shall be recorded in the diocesan registry concerned or in the provincial registry of the relevant province as the case may be.

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**Modifications etc. (not altering text)**

- C23** S. 78 applied (with modifications) (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), **ss. 35(1), 48(2)** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

**<sup>F118</sup>79 When convictions, orders or findings are to be deemed conclusive.**

.....

**Textual Amendments**

- F118** S. 79 repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

**80 Place where courts, &c. are to sit.**

Any court, commission, committee or inquiry established or held by or under the provisions of this Measure [<sup>F119</sup>and the Vicar-General's court of each of the provinces of Canterbury and York] may be held in any place convenient to the court, commission, committee or person holding the inquiry, due regard being paid to the convenience of parties and witnesses.

**Textual Amendments**

- F119** Words in s. 80 inserted (1.10.1994) by 1994 No. 2, s. 8, **Sch. para. 7**; Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

**Modifications etc. (not altering text)**

- C24** S. 80 applied (with modifications) (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), **ss. 35(1), 48(2)** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

**81 Evidence and general powers and rights of courts and commissions.**

- (1) Any court or commission established under this Measure [<sup>F120</sup>and the Vicar-General's Court of each of the provinces of Canterbury and York] shall have the same powers as the High Court in relation to the attendance and examination of witnesses and the production and inspection of documents.
- [<sup>F121</sup>(2) If any person does or omits to do anything in connection with proceedings before, or with an order made by, such court or commission [<sup>F122</sup>or Vicar-General's court] which is in contempt of that court or commission by virtue of any enactment or which would, if the court or commission had been a court of law having power to commit for contempt, have been in contempt of that court, the judge or presiding judge of the court or the presiding member of the commission, as the case may be, may certify the act or omission under his hand to the High Court.
- (3) On receiving a certificate under subsection (2) above the High Court may thereupon inquire into the alleged act or omission and after hearing any witnesses who may be produced against or on behalf of the person who is the subject of the allegation,

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and after hearing any statement that may be offered in defence, exercise the same jurisdiction and powers as if that person had been guilty of contempt of the High Court.

- (4) In this section “order” includes a special citation under [F123 section 13(2) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 or section 6(1) of the Care of Cathedrals (Supplementary Provisions) Measure 1994 and an injunction under section 13(4) of the former Measure or section 6(3) of the latter Measure].

#### Textual Amendments

- F120** Words in s. 81(1) inserted (1.10.1994) by 1994 No. 2, s. 8, **Sch. para. 8(a)**; Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F121** S. 81(2)-(4) substituted (1.3.1993) for s. 81(2)(3) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 8(1), **Sch. 4 para. 11** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York
- F122** Words in s. 81(2) inserted (1.10.1994) by 1994 No. 2, s. 8, **Sch. para. 8(b)**; Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F123** Words in s. 81(4) inserted (1.10.1994) by virtue of 1994 No. 2, s. 8, **Sch. para. 8(c)**; Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

#### Modifications etc. (not altering text)

- C25** S. 81 applied (with modifications) (1.1.2006) by Clergy Discipline Measure 2003 (No. 3), **ss. 35(1), 48(2)** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

### F124 82 Abolition of obsolete jurisdictions, courts, &c.

.....

#### Textual Amendments

- F124** S. 82 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 6** Group 5

### 83 Savings.

- (1) Any judge or registrar of an ecclesiastical court appointed to office before the commencement of this Measure shall continue in his office as if he had been appointed under this Measure and nothing contained in this Measure shall affect the terms and conditions on and subject to which his appointment was made.
- (2) Nothing in this Measure affects—
- any prerogative of Her Majesty the Queen; or
  - the existing procedure relating to the confirmation of the election of bishops; or
  - any power of the High Court to control the proper exercise by ecclesiastical courts of their functions; or
  - the mode of appointment, office, and duties of vicars general of provinces or dioceses; or
  - the visitatorial powers of archdeacons; or
  - the mode of appointment, office and duties of the official principal of an archdeacon; or

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(g) the jurisdiction of the Master of the Faculties.

(3) Subject to the provisions of section twenty-nine of the <sup>M8</sup>Ecclesiastical Commissioners Act 1840, nothing in this Measure shall authorise proceedings against a holder of an office in a Royal Peculiar.

**Modifications etc. (not altering text)**

**C26** S. 83(2) applied (with modifications) (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), ss. **35(1)**, 48(2) (with s. 47); S.I. 2005/6, Instrument made by Archbishops

**C27** S. 83(3) applied (with modifications) (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), ss. **35(1)**, 48(2) (with s. 47); S.I. 2005/6, Instrument made by Archbishops

**Marginal Citations**

**M8** 1840 c. 113.

**84 Exclusion of Channel Islands.**

For the purposes of this Measure, the diocese of Winchester shall be deemed not to include the Channel Islands.

**85 Provisions as to diocese of Sodor and Man.**

If an Act of Tynwald so provides, this Measure shall extend to the Isle of Man subject to such modifications, if any, as may be specified in such Act of Tynwald, and in that event this Measure shall then have effect with the omission, in the definition of “diocese” in subsection (1) of section sixty-six of the words “(other than Sodor and Man)”.

**86 Amendments of other enactments.**

The enactments specified in the Fourth Schedule to this Measure shall have effect subject to the amendments respectively specified in relation thereto in that Schedule (being amendments consequential on the provisions of this Measure).

**Modifications etc. (not altering text)**

**C28** The text of S. 86 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**87 Repeals.**

The enactments specified in the first and second columns of the Fifth Schedule to this Measure are hereby repealed to the extent specified in the third column of that Schedule, and any canon, constitution, decretal or other like instrument forming part of the law ecclesiastical which is inconsistent with the provisions of this Measure shall, to the extent of the inconsistency, cease to have effect.



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<sup>F125</sup>**88 Commencement.**

.....

**Textual Amendments**

**F125** S. 88 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 6 Group 5

**89 Short title.**

This Measure may be cited as the Ecclesiastical Jurisdiction Measure 1963.

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# SCHEDULES

## FIRST SCHEDULE

Sections 2, 3, 27.

### OATHS TO BE TAKEN <sup>F126</sup> . . . <sup>F126</sup> . . . , BY JUDGES OF CONSISTORY, ARCHES AND CHANCERY COURTS

**Textual Amendments**

**F126** Words in [Sch. 1](#) repealed (1.9.1995) by [1995 No. 2, s. 9\(d\)](#); Instrument dated 26.7.1995 made by [Archbishops of Canterbury and York](#)

### PART I

#### OATHS TO BE TAKEN <sup>F127</sup> . . . BY ALL JUDGES

**Textual Amendments**

**F127** Words in [Sch. 1](#) repealed (1.9.1995) by [1995 No. 2, s. 9\(d\)](#); Instrument dated 26.7.1995 made by [Archbishops of Canterbury and York](#)

“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.”

### PART II. . . . . <sup>F128</sup>

**Textual Amendments**

**F128** [Sch. 1 Pt. II](#) repealed by [Church of England \(Worship and Doctrine\) Measure 1974 \(No. 3\)](#), [Sch. 2](#)

## <sup>F129</sup> SECOND SCHEDULE

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**Textual Amendments**

**F129** Sch. 2 repealed (1.1.2006) by [Clergy Discipline Measure 2003 \(No. 3\)](#), s. 48(2), **Sch. 2** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

**F130** **THIRD SCHEDULE**

**Textual Amendments**

**F130** Sch. 3 repealed by [Ecclesiastical Jurisdiction \(Amendment\) Measure 1974 \(No. 2\)](#), s. 2(3)

**F130**

**FOURTH SCHEDULE**

Section 86

**AMENDMENTS OF OTHER ENACTMENTS.**

**Modifications etc. (not altering text)**

**C29** The text of Sch. 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**F131**

**Textual Amendments**

**F131** Entry repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), **Sch. 1 Pt. V**

**F132** ...

**Textual Amendments**

**F132** Sch. 4 entries repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 6** Group 1

**F132** ...

*The Clerical Disabilities Act, 1870.*

In section four, in paragraph (3), the reference to the enactments mentioned in the first Schedule shall include a reference to this Measure.

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*The Benefices Act, 1898.*

In sub-section (5) of section one for the words “under section two of the Clergy Discipline Act, 1892”, there shall be substituted “under section eighteen and Part IV of the Ecclesiastical Jurisdiction Measure, 1963”.

F132 ...

F132 ...

FIFTH SCHEDULE

Section 87.

ENACTMENTS REPEALED

**Modifications etc. (not altering text)**

**C30** The text of Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Session, and Chapter or Number	Title or Short Title	Extent of Repeal
13 Edw. 1. ...	The Statute of Circumspecte Agatis.	The whole statute.
18 Edw. 1. ...	The Statute of the Writ of the Consultation.	The whole statute.
9 Edw. 2. Stat. 1.	Aritcles for the Clergy...	Chapters I, II, VI and VII.
25 Edw. 3. Stat. 6.	An Ordinance for the Clergy made at Westminster in the Twenty-fifth year of the Reign of K. Edward III.	Chapter VIII.
50 Edw. 3. ...	Of the Pardons and Graces granted by the King to the Commonalty of His Realm of England; in the Fiftieth year of King Edward III.	The whole Act.
2 Hen. 5. Stat. 1.		Chapter III.
21 Hen. 8. c. 6	The Mortuaries Act, 1529...	The whole Act.
23 Hen. 8. c. 9	The Ecclesiastical Jurisdiction Act, 1531.	The whole Act.
24 Hen. 8. c. 12	The Ecclesiastical Appeals Act, 1532.	In section three, the words from “in manner and forme as hereafter ensueth” to the end.

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		In section four, the words from the beginning to “any other courte or courtes”.
25 Hen. 8. c. 19.	The Submission of the Clergy Act, 1533.	In section four, the words from “but that all manner of appelles” to the end. Section six.
32 Hen. 8. c. 7.	The Tithe Act, 1540 ...	In section five, the proviso.
2 & 3 Edw. 6. c. 1.	The Act of Uniformity, 1548	Sections five, twelve and thirteen.
5 & 6 Edw. 6. c. 4.	The Brawling Act, 1551 ...	The whole Act.
1 Mary, Sess. 2. c. 3.	The Brawling Act, 1553 ...	Sections five and six.
1 Eliz. 1. c. 2.	The Act of Uniformity, 1558	Sections six, eleven and twelve.
5 Eliz. 1. c. 23.	The Writ De Excommunicato Capiendo Act, 1562.	The whole Act.
13 Eliz. 1. c. 12.	The Ordination of Ministers Act, 1571.	Section two.
1 Car. 1.c. 1...	The Sunday Observance Act, 1625.	The second proviso.
3 Car. 1. c. 2...	An Act for the further reformation of sondry abuses committed on the Lord’s Day commonlie called Sunday.	The third proviso.
16 Car. 1. c. 11	An Act for repeal of a branch of a Statute primo concerning Commissioners for causes Ecclesiasticall.	The whole Act.
13 Car. 2. Stat. 1. c. 12.	The Ecclesiastical Jurisdiction Act, 1661.	The whole Chapter except section four.
29 Car. 2. c. 9.	The Ecclesiastical Jurisdiction Act, 1677.	The whole Act.
28 Geo. 2. c. 6.	The Mortuaries (Chester) Act, 1755.	The preamble and section one.
21 Geo. 3. c. 49.	The Sunday Observance Act, 1780.	Section seven.
31 Geo. 3. c. 32.	The Roman Catholic Relief Act, 1791.	In section twelve, the words “in any ecclesiastical court or elsewhere”.
53. Geo. 3. c. 127.	The Ecclesiastical Courts Act, 1813.	Sections one, two and three and the Schedules.  In section five, the words “or in any Ecclesiastical Court”.

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		In section seven, the second proviso.
		The Schedules.
10 Geo. 4. c. 53.	The Ecclesiastical Courts Act, 1829.	The whole Act.
2 & 3 Will. 4. c. 92.	The Privy Council Appeals Act, 1832.	The whole Act.
2 & 3 Will. 4. c. 93.	The Ecclesiastical Courts (Contempt) Act, 1832.	The whole Act.
3 & 4 Vict. c. 86.	The Church Discipline Act, 1840.	The whole Act.
3 & 4 Vict. c. 93.	The Ecclesiastical Courts Act, 1840.	The whole Act.
7 & 8 Vict. c. 59.	The Lecturers and Parish Clerks Act, 1844.	In section one, the words from “and in case” to the end, and section five.
10 & 11 Vict. c. 98.	The Ecclesiastical Jurisdiction Act, 1847.	Section nine.
17 & 18 Vict. c. 47.	The Ecclesiastical Courts Act, 1854.	The whole Act.
18 & 19 Vict. c. 41.	The Ecclesiastical Courts Act, 1855.	The whole Act.
23 & 24 Vict. c. 32.	The Ecclesiastical Courts Jurisdiction Act, 1860.	Section one.
33 & 34 Vict. c. 23.	The Forfeiture Act, 1870.	Section two in so far as it relates to ecclesiastical benefices and the holders thereof.
37 & 38 Vict. c. 85.	The Public Worship Regulation Act, 1874.	The whole Act.
39 & 40 Vict. c. 59.	The Appellate Jurisdiction Act, 1876.	In section fourteen the words from “Her Majesty may by Order in Council” to the end.
55 & 56 Vict. c. 32.	The Clergy Discipline Act, 1892.	The whole Act.
16 & 17 Geo. 5. No. 4.	The Ecclesiastical Commissioners Measure, 1926.	Section five.
26 Geo. 5. & 1 Edw. 8. No. 5.	The Ecclesiastical Commissioners (Powers) Measure, 1936.	Section nine.
10 & 11 Geo. 6. No. 1.	The Incumbents (Discipline) Measure, 1947.	The whole Measure.

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12 & 13 Geo. 6. No. 1.	The Church Dignitaries (Retirement) Measure, 1949.	Part II.  In section thirteen, in subsection (1), the words “or Part II” and, in subsection (4), the words “and subsection (2) of section five”.  In section fourteen, the words “or both under Part II of this Measure and under the Incumbents (Discipline) Measure, 1947”. the words “or the said Measure of 1947”, in both places where they occur, the words “if the proceedings were taken under the Measure of 1945” and the words from “and (ii) if” to “under this Measure”.  In section eighteen, in the definition of “prescribed” the words “the Incumbents (Discipline) Measure, 1947, or”.
13 & 14 Geo. 6. No. 1.	The Incumbents (Discipline) Measure, 1947 (Amendment) Measure, 1950.	The whole Measure.
14 & 15 Geo. 6. c. 39.	The Common Informers Act, 1951.	In the Schedule, the entry relating to the Ecclesiastical Jurisdiction Act, 1531.
14 & 15 Geo. 6. No. 2.	The Bishops (Retirement) Measure, 1951.	Part III.  In section thirteen, the words “Part I or Part II of”.  In section fifteen, the words from “and in the case” to the end.  In section sixteen, in subsection (1), the definition of “The pensions authority” and in subsection (2), the words “or who is a complainant or promoter under Part III hereof”.
1 & 2 Eliz. 2. No. 3.	The Incumbents (Discipline) and Church Dignitaries	The whole Measure.

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(Retirement) Amendment  
Measure, 1953.

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