Ecclesiastical Jurisdiction Measure 1963

1963 No. 1

PART I

THE ECCLESIASTICAL JUDICIAL SYSTEM

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—

[F1](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 [M1]Parochial Libraries Act 1708 applies;

[F2][(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 . . . [F3] of the [M2]Pluralities Act 1838 in relation to a benefice in the diocese [F4]... 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

F1 S. 6(1)(a) repealed (1.1.2006) by Clergy Discipline Measure 2003 (No. 3), s. 48(2), **Sch. 2** (with s. 47); S.I. 2005/6, Instrument made by Archbishops

F2 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

F3 Words repealed by Repairs of Benefice Buildings Measure 1972 (No. 2), **Sch. 2**

F4 Words in s. 6(1)(d) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 6** Group 1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)

C1 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)

Marginal Citations

M1 1708 c. 14.

M2 1838 c. 106.

7 Jurisdiction of Arches and Chancery Courts.

(1) The Arches Court of Canterbury and the Chancery Court of York each have jurisdiction to hear and determine appeals from judgments, orders or decrees of consistory courts of dioceses within the provinces for which they are constituted respectively, being judgments, orders or decrees given, made or pronounced—

(a) in such proceedings as are mentioned in paragraphs [F5]... (*d*) and (*e*) of subsection (1) of the last foregoing section, or

(b) in causes of faculty not involving matter of doctrine, ritual or ceremonial. **[**[F6]or (c) in proceedings for an injunction under section 13(4) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 or for a restoration order under section 13(5) of that Measure, and from interlocutory orders of those consistory courts in causes of faculty involving matter of doctrine, ritual or ceremonial;**]**

[[F7](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 **[**[F8] (including that Court as constituted in accordance with the Clergy Discipline Measure 2003 **]**, as the case may be.**]**

[[F9](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—

[[F10](a) in a disciplinary case, 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, if leave is refused by that court, 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.

Textual Amendments

F5 Words in s. 7(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

F6 Words in s. 7(1) inserted (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 8(1), **Sch. 4 para. 6(a)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York

F7 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

F8 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

F9 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

F10 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

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 paragraph (*b*) 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 **[**[F11]with the leave of Her Majesty in Council**]**.

Textual Amendments

F11 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

[F12]9 Jurisdiction of commissions of convocation.

. . . . . .

Textual Amendments

F12 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

10 Jurisdiction of Court of Ecclesiastical Causes Reserved.

(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*;

and also has jurisdiction to hear and determine appeals from judgments, orders or decrees of consistory courts of dioceses given, made or pronounced in causes of faculty involving matter of doctrine, ritual or ceremonial.

(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 in a cause of faculty lies to the Arches Court of Canterbury or the Chancery Court of York under paragraph (*b*) of 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 a question of doctrine, ritual or ceremonial is involved [F13]. . ..

[[F14](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 given, made or pronounced in a cause of faculty, 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 given, made or pronounced in a cause of faculty, the court may, if it considers that the appeal 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.

(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

F13 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

F14 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

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

[F15](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 **[**[F16] judges of the Supreme Court, or members of the 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

F15 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

F16 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)

Status:
Point in time view as at 01/10/2009.

Changes to legislation:
There are currently no known outstanding effects for the Ecclesiastical Jurisdiction Measure 1963, Cross Heading: Jurisdiction of the Courts.