



Ecclesiastical Jurisdiction Measure 1963

1963 No. 1

PART IV

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

Procedure under Part IV after Laying of Complaint

23 Duty of diocesan upon the making of complaint.

- (1) Upon a complaint under Part III of this Measure of the nature specified in the foregoing section 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 to the complainant an opportunity of being interviewed in private by him 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 by an examiner selected from a panel of examiners constituted in accordance with the provisions of section thirty of this Measure.
- (2) Where, in pursuance of the foregoing subsection, the bishop of a diocese 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.

24 Inquiry into complaint by examiner.

- (1) It shall be the duty of the examiner to whom a complaint is referred under the last foregoing section 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

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articles by a consistory court for any offence under this Measure which does not involve matter of doctrine, ritual and ceremonial.

- (2) Either the accused or the complainant may, if he so desires, be assisted or represented by a friend or adviser at any inquiry.
- (3) The complainant and the accused may lay before the examiner such evidence as they shall think fit, and such evidence shall be given by affidavit, but the examiner shall on the application of either party and may on his 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 examiner 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.
- (4) If the examiner, after making due inquiry into the complaint, decides that there is a case to answer in respect of which the accused should be put on trial for any such offence as aforesaid, he shall declare his decision, specifying the offence.
- (5) If the examiner, after making due inquiry into the complaint, decides that there is no case for the accused to answer, he shall declare his decision, and thereafter no further step shall be taken in regard thereto.
- (6) The Examiner shall reduce his decision to writing and shall give a copy of it to the accused and to the bishop of the diocese before whose registrar the complaint was laid.

25 Appointment of person to promote complaint.

Where an examiner declares, in pursuance of subsection (4) of the last foregoing section, his decision that there is a case to answer in respect of which the accused should be put on trial for any such offence as aforesaid, the bishop of the diocese before whose registrar the complaint was laid shall nominate a fit person to promote a complaint against the accused in the consistory court of that diocese.

26 Contents of articles.

Where a complaint is laid against a person by virtue of the foregoing provisions of this Part of this Measure, the articles may with the leave of the examiner or of the consistory court of the diocese include, either in substitution for or in addition to, particulars of the offence or offences specified by the examiner, particulars of any other offence founded on evidence disclosed in the course of the inquiry, not being particulars of an offence involving matter of doctrine, ritual or ceremonial.

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

- (1) If the chancellor of a diocese is of opinion for any reason that, for the purposes of any proceedings under this Part of this Measure in the consistory court thereof, it is expedient that he should not preside over the court, he may so certify in writing to the bishop and may, with the written consent of the bishop, appoint another person who, in the opinion of the chancellor, possesses sufficient experience in criminal law and procedure and consents to such appointment, to preside over the court for the purpose of such proceedings, being a person who is himself qualified for appointment as chancellor of the diocese and who satisfies the bishop that he is a communicant.

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- (2) Any person appointed to preside over a court by virtue of the provisions of the foregoing subsection shall, before he does any act pursuant to such appointment, take and subscribe the oath . . . ^{F1} required of the chancellor of the diocese by virtue of subsection (5) of section two of this Measure.

Textual Amendments

F1 Words repealed by [Church of England \(Worship and Doctrine\) Measure 1974 \(No. 3\)](#), [Sch. 2](#)

28 Conduct of trial under Part IV.

The following provisions shall have effect with respect to the trial under this Part of this Measure of a person by the consistory court of a diocese, 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 of the diocese shall give not less than fourteen clear days' notice of the sittings of the court to the person promoting the complaint and to the accused and at any sitting the court may proceed in the absence of the accused if satisfied that he was given adequate notice of such sitting;
- (e) the chancellor shall sit with four assessors appointed from a panel of assessors constituted in accordance with section thirty of this Measure, and the functions of the chancellor shall be the same as the functions of a judge of a court of assize exercising criminal jurisdiction, and shall include the obligation to sum up in open court, and the functions of the assessors, who must be unanimous, shall be the same as the functions of a jury in such a court;
- (f) the chancellor, if satisfied that it is in the interests of justice so to do, may give directions that during any part of the proceedings such persons or classes of persons including the assessors as the court may determine shall be excluded;
- (g) if the accused shall be found guilty of an offence charged the chancellor 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.

29 New Trial.

If, in the case of any trial under this Part of this Measure, the assessors shall be unable to agree upon a verdict, the chancellor shall discharge them and in such event the chancellor, after such consultation with the parties or their representatives as he shall think appropriate and within the period of fourteen days from such discharge shall either order that the accused be tried again, in which event the chancellor shall give such directions as to the time and place of such trial as he shall think fit, or direct that there shall be no retrial and pronounce the accused to be acquitted of the offence or offences of which he is charged.

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