



# Ecclesiastical Jurisdiction and Care of Churches Measure 2018

## CHAPTER 3

### ECCLESIASTICAL JURISDICTION AND CARE OF CHURCHES MEASURE 2018

#### PART 1

##### THE ECCLESIASTICAL COURTS

###### *The consistory courts*

- 1 The consistory courts: continuation
- 2 Judge: appointment
- 3 Judge: term of office
- 4 Deputy judge: appointment and term of office
- 5 Regulations as to maximum number of offices held
- 6 Judge and deputy judge: oaths
- 7 Jurisdiction
- 8 Proceedings

###### *The Arches and Chancery Courts*

- 9 The Arches and Chancery Courts: continuation
- 10 Judges: appointment
- 11 The Dean of the Arches and Auditor: term of office
- 12 Deputy Dean of the Arches and Auditor: appointment and term of office
- 13 Judges: oaths
- 14 Jurisdiction
- 15 Proceedings

*The Court of Ecclesiastical Causes Reserved*

- 16 The Court of Ecclesiastical Causes Reserved: continuation
- 17 Judges: appointment
- 18 Jurisdiction

*Commissions of review*

- 19 Commissions of review: continuation
- 20 Proceedings

*Privy Council appeals*

- 21 Appellate jurisdiction of Her Majesty in Council

*Miscellaneous*

- 22 Vacancy in see etc.
- 23 Officials Principal etc.
- 24 Place where courts etc. to sit
- 25 Evidence and contempt
- 26 Costs
- 27 Other ecclesiastical jurisdictions

**PART 2**

## LEGAL OFFICERS

- 28 Provincial registrar: continuation of office
- 29 Provincial registrar: deputy etc.
- 30 Diocesan registrar: continuation
- 31 Diocesan registrar: deputy
- 32 Registrars: term of office
- 33 Regulations as to maximum number of offices held
- 34 Prohibition on appointment as archdeacon's official principal or registrar

**PART 3**

## CARE OF CHURCHES ETC.

*General duty*

- 35 Duty to have regard to church's purpose

*Diocesan Advisory Committees*

- 36 Advisory committees: continuation
- 37 Advisory committees: functions

*The list of places of worship*

- 38 The list
- 39 Application for inclusion in the list
- 40 Application: who may apply
- 41 Application: requirements for consent etc.
- 42 Determination of application, removal from list
- 43 Effect of inclusion in the list

- 44 The list: supplementary provision

*Inspection*

- 45 Scheme for inspection of church or building in the list  
46 Inspection: contents etc.  
47 Archdeacon's power to require inspection of church  
48 Power to require inspection of other place of worship

*Role of churchwardens, PCCs and archdeacons*

- 49 Role of churchwardens in recording information  
50 Role of churchwardens in inspecting fabric etc. of church  
51 Role of PCC in maintaining etc. trees in churchyards  
52 Role of archdeacon in convening meeting in a case of default  
53 Role of archdeacon in ordering deposit of articles in place of safety

*Parochial libraries*

- 54 Preservation etc. of parochial libraries

*Interpretation*

- 55 Interpretation of Part 3

**PART 4**

**FACULTY JURISDICTION**

*Application of jurisdiction*

- 56 Churches, churchyards and articles  
57 Curtilages of churches  
58 Buildings licensed for public worship on or after 1 March 1993  
59 Buildings licensed for public worship before 1 March 1993

*Procedure*

- 60 Parties to faculty proceedings

*Subject-matter of faculty*

- 61 Vesting of privately owned parts of church  
62 Demolition of church  
63 Emergency demolition of church  
64 Erection of building on disused burial ground  
65 Exclusive right to burial places  
66 Monuments  
67 Sale of books in a parochial library

*Powers of court*

- 68 Conditions etc. on grant of faculty  
69 Costs orders against person responsible for act or default  
70 Special citation to add party to proceedings  
71 Injunction  
72 Restoration order  
73 Sections 69, 70 and 72: deliberate concealment of facts

*Role of archdeacon*

- 74 Exercise of faculty jurisdiction
- 75 Grant of licence for temporary minor re-ordering
- 76 Convening meeting in a case of default

*Cases where faculty not required*

- 77 Power to specify matters in rules
- 78 Power of chancellor to specify matters

*Supplementary*

- 79 Consultation with advisory committee

*Interpretation*

- 80 Interpretation of Part 4

**PART 5****MISCELLANEOUS***Rules*

- 81 Rule Committee: continuation and membership
- 82 Rule Committee: procedure etc.
- 83 Rule Committee: powers to make rules

*Fees*

- 84 Fees Advisory Commission: continuation and membership
- 85 Fees Advisory Commission: term of office and procedure
- 86 Fees orders
- 87 Fees: power of chancellor

*Burials and consecration*

- 88 Burials in parish burial ground
- 89 Consecration of ground added to churchyard
- 90 Reservation of right to burial in land added to churchyard
- 91 Conditions on reservation under section 90
- 92 Power of bishop to remove legal effects of consecration
- 93 Section 92: application to Crown land

**PART 6****GENERAL***Procedure*

- 94 Regulations, rules and orders

*Interpretation*

- 95 Interpretation

*Ancillary provision*

- 96 Consequential amendments

- 97 Transitional, saving and transitory provision
- 98 Repeals and revocations

*Final provision*

- 99 Commencement
- 100 Extent
- 101 Short title

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SCHEDULES

SCHEDULE 1 — OTHER ECCLESIASTICAL JURISDICTIONS

- 1 Revival of amendments made by Care of Cathedrals (Supplementary Provisions) Measure 1994
- 2 Amendments of the Ecclesiastical Jurisdiction Measure 1963
- 3 (1) Section 1 (the ecclesiastical courts) is amended as follows...
- 4 Omit section 2 (judge of consistory court).
- 5 Omit section 2A (power to limit number of chancellorships etc.)...
- 6 (1) Section 3 (judges of the Arches and Chancery Courts)...
- 7 Omit section 4 (appointment of deputy judges of consistory court)...
- 8 Omit section 5 (judges of the Ecclesiastical Causes Reserved).
- 9 Omit section 6 (jurisdiction of consistory court).
- 10 (1) Section 7 (jurisdiction of the Arches and Chancery Courts)...
- 11 Omit section 8 (appellate jurisdiction of Her Majesty in Council)...
- 12 In section 10 (jurisdiction of Court of Ecclesiastical Causes Reserved),...
- 13 In section 11 (the title to which becomes “Jurisdiction of...
- 14 For section 12 substitute— Disciplinary tribunals to be unaffected by...
- 15 Omit section 13 (certain judges to be ex officio officials...
- 16 Omit section 46 (proceedings in consistory court).
- 17 In section 47 (proceedings in Arches and Chancery Courts), in...
- 18 (1) Section 48 (proceedings before Commission of Review) is amended...
- 19 In section 58 (payment of costs of bishop etc.), omit...
- 20 (1) Section 60 (powers of courts and commissions in regard...
- 21 In section 62 (payment of expenses of courts by Archbishops’...
- 22 In section 69 (criminal proceedings)— (a) omit “in the consistory...
- 23 In section 80 (place where courts etc. to sit)—
- 24 (1) Section 81 (evidence and general powers and rights of...
- 25 Amendments of the Care of Cathedrals Measure 2011
- 26 In section 11(3) (constitution of Commission of Review), in paragraph...
- 27 (1) Section 18 (institution of proceedings for injunction or restoration...
- 28 In section 19 (jurisdiction and composition of Vicar-General’s court), after...
- 29 (1) Section 20 (powers of Vicar-General’s court) is amended as...
- 30 After section 20 insert— Costs (1) The Vicar-General’s court may, at any stage of proceedings...

SCHEDULE 2 — DIOCESAN ADVISORY COMMITTEE: CONSTITUTION

- 1 Name
- 2 Membership: appointment
- 3 Membership: term of office
- 4 Membership: casual vacancies

- 5 Membership: co-opting
- 6 Consultants
- 7 Secretary

### SCHEDULE 3 — CONSEQUENTIAL AMENDMENTS

#### PART 1 — PRIMARY LEGISLATION

- 1 Burial Act 1857
- 2 City of London (Guild Churches) Act 1952
- 3 Church Property (Miscellaneous Provisions) Measure 1960
- 4 Ecclesiastical Jurisdiction Measure 1963
- 5 In section 63 (the title to which becomes “Fees payable...
- 6 In section 66(1) (interpretation), in the definition of “prescribed” for...
- 7 Overseas and Other Clergy (Ministry and Ordination) Measure 1967
- 8 Synodical Government Measure 1969
- 9 Ecclesiastical Fees Measure 1986
- 10 Planning (Listed Buildings and Conservation Areas) Act 1990
- 11 Clergy Discipline Measure 2003
- 12 In section 5(3) (registrar of tribunals: term of office), for...
- 13 In section 43(1) (interpretation), in the definition of “prescribed” for...
- 14 Constitutional Reform Act 2005
- 15 Dioceses, Pastoral and Mission Measure 2007
- 16 Mission and Pastoral Measure 2011
- 17 In section 43 (designation of places of worship), in subsection...
- 18 In section 61 (declaration of closure for regular public worship),...
- 19 (1) Section 68 (prohibition on closure or disposal of churches...
- 20 Care of Cathedrals Measure 2011
- 21 In section 6 (application for approval for works to cathedral),...
- 22 In each of the following provisions, omit “made under section...
- 23 In section 32(1) (interpretation), at the appropriate place insert—  
“rules”...

#### PART 2 — PROCEDURAL RULES

- 24 Ecclesiastical Jurisdiction (Discipline) Rules 1964 (S.I. 1964/1755)
- 25 In rule 2(1) (interpretation)— (a) in the definition of “the...
- 26 The following are revoked— (a) rules 5 to 18 (proceedings...
- 27 Patronage (Benefices) Rules 1987 (S.I. 1987/773)
- 28 Patronage (Appeals) Rules 1988 (S.I. 1988/1980)
- 29 Care of Places of Worship Rules 1999 (S.I. 1999/2111)
- 30 In rule 2 (interpretation)— (a) in the definition of “application”,...
- 31 In rule 8 (removal from list: supplementary provisions), for “section...
- 32 Rule 9 (guidance by diocesan chancellors) is revoked.
- 33 (1) Part 1 of the Schedule (material required in connection...
- 34 (1) Part 2 of the Schedule (material required in connection...
- 35 Care of Cathedrals Rules 2006 (S.I. 2006/1941)
- 36 Faculty Jurisdiction Rules 2015 (S.I. 2015/1568)
- 37 (1) In rule 2.2 (interpretation), paragraph (1) is amended as...
- 38 In rule 2.2, in paragraph (5)— (a) for “section 1(1)...
- 39 In rule 3.1 (matters not requiring a faculty: interpretation), in...
- 40 In rule 3.4 (additional matters which may be undertaken without...
- 41 In rule 3.5 (excluded matters: general), in paragraph (1)(k), for...
- 42 (1) Rule 3.6 (excluded matters orders) is amended as follows....
- 43 In each of the following provisions in Part 5 (faculty...
- 44 In rule 5.5 (documents etc. to accompany petition), in paragraph...
- 45 In rule 6.2 (form of public notice), in paragraph (2),...

- 46 (1) Rule 8.1 (removal of article to place of safety)...
  - 47 In rule 10.1 (objections to faculty petition: interested persons), in...
  - 48 In rule 19.4 (special citation of persons in default), in...
  - 49 In rule 21.2 (appeals: interpretation), omit each of the following—...
  - 50 In Schedule 1 (matters which may be undertaken without a...
  - 51 In Schedule 3 (forms), in each of the following forms,...
- PART 3 — FEES ORDERS
- 52 Ecclesiastical Judges, Legal Officers and Others (Fees) Order 2017 (S.I. 2017/796)
  - 53 In article 1 (the title to which becomes “Citation, commencement...
  - 54 (1) Article 2 (faculty fees payable to diocesan boards of...
  - 55 In article 3 (register of patrons), in paragraph (2), for...
  - 56 (1) Article 4 (proceedings in consistory court) is amended as...
  - 57 In article 5 (appeals from consistory court), in paragraph (2),...
  - 58 In article 7 (proceedings in Vicar-General’s court), in paragraph (3),...
  - 59 (1) Article 9 (proceedings on review of finding of Court...
  - 60 In article 12 (miscellaneous fees), in paragraph (2), for “section...
  - 61 Legal Officers (Annual Fees) Order 2017 (S.I. 2017/797)
  - 62 In article 1(3)(b) (interpretation), for “the Ecclesiastical Fees Measure 1986”...
  - 63 (1) Schedule 2 (scope of annual fee) is amended as...

SCHEDULE 4 — TRANSITIONAL, SAVING AND TRANSITORY PROVISIONS

PART 1 — TRANSITIONAL AND SAVING PROVISIONS

- 1 Continuity of the law
  - 2 A reference, express or implied, in this Measure, another enactment...
  - 3 A reference, express or implied, in an enactment, instrument or...
  - 4 Any subordinate legislation made, any appointment or nomination made or...
  - 5 Paragraphs 1 to 4 have effect in place of section...
  - 6 Effect of previous transitionals and savings
  - 7 (1) The repeal by this Measure of a provision previously...
  - 8 Use of existing forms etc.
  - 9 Duplicated repeals
- PART 2 — TRANSITORY PROVISIONS
- 10 Proceedings for determining rights to compensation for loss of office etc.

SCHEDULE 5 — REPEALS AND REVOCATIONS