



# Ecclesiastical Jurisdiction and Care of Churches Measure 2018

2018 No. 3

## PART 1

### THE ECCLESIASTICAL COURTS

#### *Miscellaneous*

#### **22 Vacancy in see etc.**

- (1) A vacancy in the see of Canterbury does not affect the exercise of jurisdiction by the Arches Court of Canterbury.
- (2) A vacancy in the see of York does not affect the exercise of jurisdiction by the Chancery Court of York.
- (3) A vacancy in the see of Canterbury or York does not affect the exercise of jurisdiction by the Vicar-General's court of the province in question.
- (4) A vacancy in the see of Canterbury or York or of the bishop of any other diocese does not affect the exercise of jurisdiction by the consistory court of the diocese in question.
- (5) A vacancy in a see as mentioned in this section does not affect the discharge of functions by a judge, member or officer of a court referred to in this section.
- (6) A vacancy in an archiepiscopal or diocesan see does not affect the discharge by the Vicar-General of the province or diocese in question or by a surrogate of the Vicar-General of the functions of the Vicar-General or surrogate.
- (7) The appointment of a person as chancellor, registrar or Vicar-General of a diocese is not terminated merely because—
  - (a) a vacancy in the diocesan see is terminated, and
  - (b) the appointment has not previously been confirmed by the Chapter of the cathedral of the diocese.

- (8) The appointment of a person as Vicar-General of a province is not terminated merely because—
  - (a) a vacancy in the archiepiscopal see is terminated, and
  - (b) the appointment has not previously been confirmed by the metropolitan church of the diocese.
- (9) The appointment of a person as a surrogate of the Vicar-General of a diocese is not terminated merely because a vacancy occurs in the office of that Vicar-General.
- (10) In the application of subsection (7)(b) to the Cathedral Church of Christ in Oxford, the reference to the Chapter is to be read as a reference to the Dean and Chapter.

### **23 Officials Principal etc.**

- (1) The Dean of the Arches and Auditor is, by virtue of that office, to continue to be the Official Principal of the Archbishop of Canterbury and the Official Principal of the Archbishop of York in the capacity each has as Metropolitan.
- (2) The Dean of the Arches and Auditor is to continue to be Master of the Faculties to the Archbishop of Canterbury.
- (3) The chancellor of a diocese is, by virtue of that office, to continue to be the Official Principal of the bishop of the diocese.

### **24 Place where courts etc. to sit**

Proceedings of a court or commission exercising jurisdiction under this Measure may be held in any place convenient to it, due regard being had to the convenience of parties and witnesses.

### **25 Evidence and contempt**

- (1) A court or commission exercising jurisdiction under this Measure has the same powers as the High Court in relation to—
  - (a) the attendance and examination of witnesses, and
  - (b) the production and inspection of documents.
- (2) Subsection (3) applies if a person does or omits to do something in connection with proceedings before, or in connection with an order made by, a court or commission exercising jurisdiction under this Measure—
  - (a) which is in contempt of that court or commission by virtue of an enactment, or
  - (b) which would be in contempt of that court or commission if it had power to commit for contempt.
- (3) The judge or presiding judge of the court or the presiding member of the commission may send to the High Court a certificate under his or her hand stating the act or omission.
- (4) The High Court may—
  - (a) on receiving a certificate under subsection (3), inquire into the alleged act or omission, and

- (b) after hearing any witness for or against the person subject to the allegation and any statement in defence, exercise the same jurisdiction and powers as if the person were guilty of contempt of the High Court.
- (5) In subsection (2), “order” includes—
  - (a) a special citation under section 70,
  - (b) an injunction under section 71,
  - (c) a special citation under section 20(1) of the Care of Cathedrals Measure 2011, and
  - (d) an injunction under section 20(3) of that Measure.

## **26 Costs**

- (1) A court or commission exercising jurisdiction under this Measure may at any stage of proceedings before it order a party to give security for costs.
- (2) A court or commission exercising jurisdiction under this Measure may make an order against a party to proceedings before it for payment of—
  - (a) taxed costs,
  - (b) a specified proportion of the taxed costs,
  - (c) the taxed costs from or up to a specified stage of the proceedings, or
  - (d) a specified gross sum in lieu of taxed costs.
- (3) The power to tax costs under this section is exercisable by a registrar; and the power must be exercised in such manner as rules may specify.
- (4) Where an order for payment of costs is made under subsection (2)(a), (b) or (c), a party to the proceedings may appeal against the registrar’s taxation to the chancellor of the diocese in which the proceedings were brought.
- (5) An appeal under subsection (4) is to be lodged and conducted in such manner as rules may specify.
- (6) On an appeal under subsection (4), the chancellor may confirm or vary the registrar’s taxation.
- (7) Costs ordered to be paid under this section are, if the county court so orders, recoverable—
  - (a) under a warrant issued by the county court (see section 85 of the County Courts Act 1984), or
  - (b) otherwise as if the sum were payable under an order of the county court.
- (8) For the purposes of subsection (7), a certificate stating that the sum specified is the sum due to be paid by the person referred to, and purporting to be signed by the registrar of the diocese or province in which the order for costs was made, is conclusive evidence of the facts certified.
- (9) In this section, “costs” includes fees, charges, disbursements, expenses and remuneration.

## **27 Other ecclesiastical jurisdictions**

Schedule 1 (which makes provision in relation to other ecclesiastical jurisdictions) has effect.