



# Ecclesiastical Jurisdiction and Care of Churches Measure 2018

2018 No. 3

## PART 1 **E**

### THE ECCLESIASTICAL COURTS

#### *The Arches and Chancery Courts*

#### 9 The Arches and Chancery Courts: continuation **E**

- (1) For each province there is to continue to be a court of the archbishop.
- (2) The court for the province of Canterbury is to continue to be known as the Arches Court of Canterbury.
- (3) The court for the province of York is to continue to be known as the Chancery Court of York.

#### Commencement Information

**II** S. 9 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

#### 10 Judges: appointment **E**

- (1) The following persons are both the judges of the Arches Court of Canterbury and the judges of the Chancery Court of York—
  - (a) the judge appointed as mentioned in subsection (2), and
  - (b) the chancellor of each diocese in each province, other than the chancellor of the diocese in Europe.

**Changes to legislation:** There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, Cross Heading: The Arches and Chancery Courts. (See end of Document for details)

- (2) The judge referred to in subsection (1)(a) is appointed by the Archbishops of Canterbury and York acting jointly with the approval of Her Majesty signified by warrant under the sign manual.
- (3) That judge is to continue to be known as the Dean of the Arches and Auditor, being styled as—
  - (a) Dean of the Arches, in relation to the jurisdiction in the province of Canterbury, and
  - (b) Auditor, in relation to the jurisdiction in the province of York.
- (4) A person may be appointed as the Dean of the Arches and Auditor only if the person—
  - (a) holds or has held high judicial office, or
  - (b) has the qualifications required for appointment as a Lord Justice of Appeal.
- (5) A lay person may be appointed as the Dean of the Arches and Auditor only if the Archbishops of Canterbury and York are satisfied that the person is a communicant.
- (6) Subsection (1) does not apply in relation to proceedings on an appeal under section 20 of the Clergy Discipline Measure 2003; for provision as to the judges of each Court in proceedings of that kind, see section 3 of the Ecclesiastical Jurisdiction Measure 1963.

#### Commencement Information

**I2** S. 10 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

## 11 The Dean of the Arches and Auditor: term of office **E**

- (1) The term of a person's appointment as the Dean of the Arches and Auditor—
  - (a) begins with the date of the appointment, and
  - (b) subject to the following provisions of this section, ends with the day on which the person reaches the age of 75.
- (2) The Dean of the Arches and Auditor may resign the office by instrument in writing signed by him or her and addressed to, and served on, the Archbishops of Canterbury and York.
- (3) The Archbishops of Canterbury and York acting jointly may remove the Dean of the Arches and Auditor from office if the Upper House of each of the Convocations resolves that he or she is incapable of acting or unfit to act; and such a resolution must be filed in the registry of the province concerned.
- (4) Where the Dean of the Arches and Auditor reaches the age of 75 during the course of proceedings in the Arches Court of Canterbury or the Chancery Court of York, he or she may continue to act as a judge for the purposes of those proceedings as if the day on which the proceedings concluded in that Court were the day on which he or she reached that age.

#### Commencement Information

**I3** S. 11 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

**Changes to legislation:** There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, Cross Heading: The Arches and Chancery Courts. (See end of Document for details)

## 12 Deputy Dean of the Arches and Auditor: appointment and term of office **E**

- (1) The Dean of the Arches and Auditor may, with the consent of the Archbishops of Canterbury and York, appoint a fit and proper person to act as deputy Dean of the Arches and Auditor for such period not exceeding 12 months, or for such purpose, as is specified in the instrument of appointment.
- (2) Where the Dean of the Arches and Auditor is for any reason unable to act or the office of the Dean is vacant, the Archbishops of Canterbury and York acting jointly may in writing appoint a fit and proper person to act as deputy Dean of the Arches and Auditor during the period of inability or the vacancy.
- (3) A person appointed as deputy under this section has the same powers and duties as the Dean of the Arches and Auditor; but in the case of an appointment under subsection (1) for a specified purpose, the reference to having those powers and duties is a reference to having them for that purpose only.
- (4) The qualifications for an appointment under this section are the same as those for the appointment of the Dean of the Arches and Auditor under section 10; accordingly, subsections (4) and (5) of that section apply to an appointment under this section as they apply to an appointment under that section.

### Commencement Information

**I4** S. 12 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

## 13 Judges: oaths **E**

- (1) The Dean of the Arches and Auditor and any person appointed as deputy who is not the chancellor of a diocese must, before entering on the execution of the office of judge of the Arches Court of Canterbury or the Chancery Court of York, take the following oaths—
 

“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.”
- (2) The oaths must be taken—
  - (a) 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
  - (b) in open court in each province in the presence of the registrar of the province.
- (3) The registrar of each province must record the taking of the oaths and file the record in the provincial registry.

### Commencement Information

**I5** S. 13 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

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## 14 Jurisdiction **E**

- (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 in the province concerned—
  - (a) in proceedings for obtaining a faculty, or
  - (b) in proceedings of the kind mentioned in section 7(1)(d) or (h),
 unless the appeal to any extent relates to matter involving doctrine, ritual or ceremonial (as to which, see section 18).
- (2) The Arches Court of Canterbury has jurisdiction to hear and determine an appeal from a judgment, order or decree of the Vicar-General's court of Canterbury (except as constituted in accordance with the Clergy Discipline Measure 2003).
- (3) The Chancery Court of York has jurisdiction to hear and determine an appeal from a judgment, order or decree of the Vicar-General's court of York (except as constituted in accordance with the Clergy Discipline Measure 2003).
- (4) An appeal under this section may be brought by any party to the proceedings with the permission—
  - (a) in a case within subsection (1), of the consistory court or the Dean of the Arches and Auditor, or
  - (b) in a case within subsection (2) or (3), of the Vicar-General's court or the Dean of the Arches and Auditor.
- (5) In proceedings pending in the consistory court of a diocese, the Arches Court of Canterbury or the Chancery Court of York (depending on the province in which the diocese is situated) has jurisdiction, either on its own motion or on the application of a party to the proceedings, to give directions as to the further conduct of the proceedings, if it considers that—
  - (a) there has been inordinate delay in the conduct of the proceedings, or
  - (b) it is otherwise in the interests of justice.
- (6) In acting under subsection (5), the Court may give any direction which the chancellor has power to give.

### Commencement Information

**I6** S. 14 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

## [<sup>F1</sup>14A Decisions treated as taken by each Court **E**

- (1) A decision of the Arches Court of Canterbury or the Chancery Court of York is to be treated by the other Court, and by the lower ecclesiastical courts in the province of the other Court, as if it were a decision which the other Court had itself taken.
- (2) The reference to a decision of the Arches Court of Canterbury or the Chancery Court of York is a reference to a decision taken by it in the exercise of—
  - (a) its jurisdiction under section 14(1), (2) or (3), or
  - (b) its jurisdiction under section 7 of the Ecclesiastical Jurisdiction Measure 1963 (disciplinary jurisdiction).
- (3) “Lower ecclesiastical court”, in relation to a province, means—

**Changes to legislation:** There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, Cross Heading: The Arches and Chancery Courts. (See end of Document for details)

- (a) the Vicar-General's court of the province (including as constituted in accordance with the Clergy Discipline Measure 2003),
- (b) the consistory court for a diocese in the province, or
- (c) a disciplinary tribunal within the province.]

#### Textual Amendments

**F1** S. 14A inserted (1.3.2019) by Church of England (Miscellaneous Provisions) Measure 2018 (No. 7), ss. 7(1), 17(3) (with s. 7(3)); S.I. 2019/67, art. 2(1)(f)

## 15 Proceedings **E**

- (1) Proceedings under this Measure in the Arches Court of Canterbury or the Chancery Court of York are to be heard and disposed of by—
  - (a) the Dean of the Arches and Auditor, and
  - (b) two chancellors designated by the Dean for the purposes of the case in question.
- (2) The Dean of the Arches and Auditor, sitting alone in either Court, has jurisdiction to make interim orders, including directions under section 14(5) (cases involving inordinate delay etc.).
- (3) Proceedings under this Measure in either Court are to be brought and conducted in such manner as rules may specify.

#### Commencement Information

**I7** S. 15 in force at 1.9.2018 by S.I. 2018/720, art. 2

**Changes to legislation:**

There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, Cross Heading: The Arches and Chancery Courts.