



Ecclesiastical Jurisdiction and Care of Churches Measure 2018

2018 No. 3

PART 1

THE ECCLESIASTICAL COURTS

The Court of Ecclesiastical Causes Reserved

16 The Court of Ecclesiastical Causes Reserved: continuation

For both provinces, there is to continue to be a court called the Court of Ecclesiastical Causes Reserved.

17 Judges: appointment

- (1) The Court of Ecclesiastical Causes Reserved is constituted of five judges, appointed by Her Majesty.
- (2) Two of the five judges must be persons each of whom—
 - (a) holds or has held high judicial office, and
 - (b) has made a declaration that he or she is a communicant.
- (3) Three of the five judges must be persons each of whom is or has been a diocesan bishop.

18 Jurisdiction

- (1) The Court of Ecclesiastical Causes Reserved has jurisdiction to hear and determine an appeal from a judgment, order or decree of a consistory court—
 - (a) in proceedings for obtaining a faculty, or
 - (b) in proceedings of the kind mentioned in section 7(1)(d) or (h),

where the appeal to any extent relates to matter involving doctrine, ritual or ceremonial.

- (2) The Court of Ecclesiastical Causes Reserved has jurisdiction to hear and determine all suits of duplex querela.
- (3) An appeal under this section may be brought by any party to the proceedings.
- (4) For the purpose of determining whether an appeal from a judgment, order or decree of a consistory court is to be brought under section 14(1) or under this section, the chancellor must, on the application of the party wishing to appeal, certify whether the proposed appeal relates to any extent to matter involving doctrine, ritual or ceremonial.
- (5) If, in proceedings on an appeal from a judgment, order or decree of a consistory court, the Court of Ecclesiastical Causes Reserved 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 also relates to other matter—
 - (a) it may deal with the other matter if it considers it expedient to do so, but
 - (b) otherwise, it must refer the other matter to the Arches Court of Canterbury or the Chancery Court of York, as appropriate, for it to hear and determine.
- (6) If, in proceedings on an appeal from a judgment, order or decree of a consistory court, the Court of Ecclesiastical Causes Reserved considers that no matter of doctrine, ritual or ceremonial is involved, it must refer the appeal (despite any certificate to the contrary under subsection (4)) to the Arches Court of Canterbury or the Chancery Court of York, as appropriate, for it to hear and determine.
- (7) If, in proceedings on an appeal from a judgment, order or decree of a consistory court, the Arches Court of Canterbury or the Chancery Court of York considers that the appeal to any extent relates to matter involving doctrine, ritual or ceremonial, it must refer the appeal (despite any certificate to the contrary under subsection (4)) to the Court of Ecclesiastical Causes Reserved for it to hear and determine.
- (8) Where the Dean of the Arches and Auditor and the two judges referred to in section 17(2) jointly issue practice directions about the reference of an appeal under subsections (5) to (7), the reference must, subject to rules, be made in accordance with those practice directions.
- (9) In the exercise of its jurisdiction under this Measure, the Court of Ecclesiastical Causes Reserved is not bound by any decision of the Judicial Committee of the Privy Council in relation to matter of doctrine, ritual or ceremonial.