



# Ecclesiastical Jurisdiction and Care of Churches Measure 2018

2018 No. 3

## PART 1

### THE ECCLESIASTICAL COURTS

#### *The consistory courts*

#### **1 The consistory courts: continuation**

- (1) For each diocese there is to continue to be a court of the bishop of the diocese.
- (2) The court is to continue to be known as the consistory court of the diocese or, in the case of the diocese of Canterbury, the commissary court of that diocese.
- (3) Accordingly, a reference in this Measure to the consistory court of a diocese is, in the case of the diocese of Canterbury, to be read as a reference to the commissary court of that diocese.

#### **Commencement Information**

**II** [S. 1](#) in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

#### **2 Judge: appointment**

- (1) The consistory court of a diocese is to be presided over by a single judge, appointed by the bishop of the diocese by letters patent.
- (2) The judge is to continue to be known as the chancellor of the diocese or, in the case of the diocese of Canterbury, the commissary general.

*Status: Point in time view as at 01/09/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, PART 1. (See end of Document for details)*

- (3) Accordingly, a reference in this Measure to the chancellor of a diocese is, in the case of the diocese of Canterbury, to be read as a reference to the commissary general.
- (4) A person may be appointed as chancellor of a diocese only if the person—
  - (a) holds or has held high judicial office, or
  - (b) holds or has held the office of circuit judge or has the qualifications required for holding that office.
- (5) A lay person may be appointed as chancellor of a diocese only if the bishop is satisfied that the person is a communicant.
- (6) Before appointing a person as chancellor of a diocese, the bishop must consult—
  - (a) the Lord Chancellor, and
  - (b) the Dean of the Arches and Auditor.

#### **Commencement Information**

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

### **3 Judge: term of office**

- (1) The term of a person's appointment as chancellor of a diocese—
  - (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 70.
- (2) The chancellor of a diocese may resign the office by instrument in writing signed by him or her and addressed to, and served on, the bishop of the diocese.
- (3) The bishop of a diocese may remove the chancellor of the diocese from office if the Upper House of the Convocation of the province concerned 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, during the course of proceedings in the consistory court, the chancellor of the diocese reaches the age of 70, he or she may continue to act as chancellor for the purposes of the proceedings as if the day on which the proceedings concluded in that court were the day on which he or she reached that age.
- (5) Where the bishop of a diocese considers that it would be desirable in the interests of the diocese to retain the chancellor in office after the date on which he or she would otherwise retire under subsection (1) or (4), the bishop may authorise the continuance in office of the chancellor after that date for a period of up to two years.
- (6) The bishop of a diocese may authorise the further continuance in office of the chancellor of the diocese for periods of up to one year at a time.
- (7) The period during which a person remains in office as chancellor may not be continued under subsection (5) or (6) beyond the date on which the person reaches the age of 75.
- (8) Before authorising a period of continuance under subsection (5) or (6), the bishop must consult the Dean of the Arches and Auditor.

*Status: Point in time view as at 01/09/2020.*

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- (9) Where the chancellor of a diocese is continuing in office under subsection (5) or (6) and, during the course of proceedings in the consistory court, the period of continuance under that subsection expires, he or she may continue to act as chancellor for the purposes of the proceedings as if the day on which the proceedings concluded in that court were the day on which the period of continuance expired.
- (10) The references in subsections (1) and (4) to reaching the age of 70 apply only in the case of a person appointed as chancellor on or after 31 March 1995; in the case of a person appointed as chancellor before that date, the references are to be read as references to reaching the age at which a circuit judge appointed on the day on which the person was appointed as chancellor would be obliged to vacate office.

#### Commencement Information

**I3** [S. 3](#) in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

## 4 Deputy judge: appointment and term of office

- (1) The chancellor of a diocese, with the consent of the bishop of the diocese, may in writing appoint a fit and proper person to act as deputy chancellor of the diocese.
- (2) Where the chancellor of a diocese is for any reason unable to act, the bishop of the diocese may in writing appoint a fit and proper person to act as deputy chancellor of the diocese during the period in which the chancellor is unable to act.
- (3) Where the chancellor of a diocese notifies the bishop of the diocese that it would be inappropriate for him or her or for a deputy chancellor appointed under subsection (1) to act for the purposes of the proceedings to which the notification relates, the bishop of the diocese may in writing appoint a fit and proper person to act as deputy chancellor for those purposes.
- (4) Where the office of chancellor of a diocese is vacant, the bishop of the diocese may in writing appoint a fit and proper person to act as deputy chancellor of the diocese during the vacancy.
- (5) A deputy chancellor has the same powers and duties as the chancellor for whom he or she is deputy.
- (6) The qualifications for an appointment under this section are the same as those for the appointment of a chancellor under section 2; accordingly, subsections (4) and (5) of that section apply to an appointment under this section as they apply to an appointment under that section.
- (7) The appointment of a person as a deputy under subsection (1) continues—
  - (a) for so long as the chancellor who made the appointment continues in office and then for a period of three months beginning with the date on which the chancellor ceases to hold office, or
  - (b) if before the end of that period the deputy reaches the age at which the chancellor would be required to vacate office under section 3(1), until the day on which the deputy reaches that age.
- (8) A deputy chancellor appointed under subsection (1) may resign the office by notice in writing addressed to the chancellor.

*Status: Point in time view as at 01/09/2020.*

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- (9) The chancellor of a diocese may, after consultation with the bishop of the diocese, remove a deputy chancellor appointed under subsection (1) from office if the chancellor considers that he or she is incapable of acting or unfit to act.
- (10) Where, during the course of proceedings in the consistory court in which the deputy chancellor of the diocese is acting as chancellor, the person's appointment as deputy chancellor would (but for this subsection) end under subsection (7), the person may continue to act as chancellor for the purposes of the proceedings as if the day on which the proceedings concluded in that court were the day on which the appointment ends under subsection (7).

**Commencement Information**

**I4** [S. 4](#) in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

**5 Regulations as to maximum number of offices held**

- (1) The House of Bishops may by regulations make provision with respect to the maximum number of chancellorships or deputy chancellorships which any one person may hold.
- (2) Regulations under subsection (1) may not include provision to prohibit a person who, at the time the provision comes into force, holds more than the specified maximum number of chancellorships or deputy chancellorships from continuing to do so.
- (3) Regulations under subsection (1)—
- (a) must be laid before the General Synod, and
  - (b) may not come into force unless they have been approved by the Synod.

**Commencement Information**

**I5** [S. 5](#) in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

**6 Judge and deputy judge: oaths**

- (1) The chancellor or deputy chancellor of a diocese must, before entering on the execution of the office, 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 bishop of the diocese in the presence of the diocesan registrar, or
  - (b) in open court in the presence of the diocesan registrar.
- (3) The diocesan registrar must record the taking of the oaths and file the record in the diocesan registry.

*Status: Point in time view as at 01/09/2020.*

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**Commencement Information**

**I6** S. 6 in force at 1.9.2018 by S.I. 2018/720, art. 2

## 7 Jurisdiction

- (1) The consistory court of a diocese has jurisdiction to hear and determine—
  - (a) proceedings for obtaining a faculty to authorise an act relating to land in the diocese, or to something on, in or otherwise appertaining to land there, for which a faculty is required;
  - (b) proceedings for an order under section 53(8) (delivery of article to place of safety);
  - (c) proceedings for obtaining a faculty under section 67 (sale of books in parochial library);
  - (d) proceedings for an injunction under section 71 or a restoration order under section 72;
  - (e) proceedings under section 68(7) or (12) of the Mission and Pastoral Measure 2011 (enforcement or interpretation of leases);
  - (f) proceedings under section 71(9) of that Measure (compensation for loss of burial rights);
  - (g) proceedings upon a jus patronatus awarded by the bishop of the diocese;
  - (h) any other proceedings which, immediately before the passing of the Ecclesiastical Jurisdiction Measure 1963 on 31 July 1963, the court had power to determine (except proceedings the jurisdiction for which was expressly abolished by that Measure).
- (2) Criminal proceedings may not be brought in the consistory court of a diocese.
- (3) “Land” includes messuages, tenements and hereditaments, houses and buildings of any tenure.

**Commencement Information**

**I7** S. 7 in force at 1.9.2018 by S.I. 2018/720, art. 2

## 8 Proceedings

Proceedings in the consistory court of a diocese are to be heard and disposed of by the chancellor of the diocese.

**Commencement Information**

**I8** S. 8 in force at 1.9.2018 by S.I. 2018/720, art. 2

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### *The Arches and Chancery Courts*

## 9 The Arches and Chancery Courts: continuation

- (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

**I9** S. 9 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

## 10 Judges: appointment

- (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.
- (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

**I10** 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

- (1) The term of a person's appointment as the Dean of the Arches and Auditor—

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- (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**

**II1** S. 11 in force at 1.9.2018 by [S.I. 2018/720](#), **art. 2**

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

- (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**

**II2** S. 12 in force at 1.9.2018 by [S.I. 2018/720](#), **art. 2**

*Status: Point in time view as at 01/09/2020.*

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### 13 Judges: oaths

- (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

**I13** S. 13 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

### 14 Jurisdiction

- (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



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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

**I14** 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

- (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—
  - (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

- (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.

*Status: Point in time view as at 01/09/2020.*

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**Commencement Information**

**I15** S. 15 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

*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.

**Commencement Information**

**I16** S. 16 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

**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.

**Commencement Information**

**I17** S. 17 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

**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.

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- (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.

**Commencement Information**

**I18** S. 18 in force at 1.9.2018 by S.I. 2018/720, art. 2

*Commissions of review*

**19 Commissions of review: continuation**

- (1) There is to continue to be power for Her Majesty to appoint commissioners who are to have jurisdiction to review a finding of the Court of Ecclesiastical Causes Reserved in proceedings under section 18.
- (2) A party to proceedings in the Court of Ecclesiastical Causes Reserved under section 18 may lodge with the Clerk of the Crown in Chancery a petition addressed to Her Majesty praying that She will be pleased to cause a finding of the Court in those proceedings to be reviewed.
- (3) A petition under this section—
  - (a) must be in the form specified in rules;
  - (b) must be lodged with the Clerk of the Crown in Chancery within the period so specified after the finding to which it relates.

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- (4) On a petition being lodged under this section, a commission must be directed under the Great Seal to such five persons as Her Majesty may nominate to review the finding to which the petition relates.
- (5) Three of the nominees under subsection (4) must be persons each of whom—
  - (a) is a judge of the Supreme Court or a member of the supplementary panel under section 39 of the Constitutional Reform Act 2005, and
  - (b) has made a declaration that he or she is a communicant.
- (6) Two of the nominees under subsection (4) must be Lords Spiritual in the House of Lords.
- (7) A commission appointed under this section is to be known as a Commission of Review.

#### **Commencement Information**

**II9** S. 19 in force at 1.9.2018 by S.I. 2018/720, art. 2

## **20 Proceedings**

- (1) Proceedings before a Commission of Review exercising jurisdiction under this Measure are, subject to this section, to be brought and conducted in such manner as rules may specify.
- (2) To assist a Commission of Review on a review under this Measure of a decision of the Court of Ecclesiastical Causes Reserved involving a question of doctrine, the Upper House of each the Convocations must jointly appoint a panel of persons, in such numbers as those Houses may determine, consisting of—
  - (a) members of either House, and
  - (b) if the Houses think fit, theologians who are not members of either House.
- (3) Where a review under this Measure by a Commission of Review involves a question of doctrine, the Commission must request five persons selected by it from the panel appointed under subsection (2)—
  - (a) to sit with it as advisers, and
  - (b) to give such assistance on the matters of doctrine involved in the review as the Commission may require.
- (4) The judgment of the Commission must accord with the opinion of the majority of its members; and each member of the Commission must state his or her own opinion on the question under review.
- (5) In the exercise of its jurisdiction under this Measure, a Commission of Review is not bound by any decision of the Judicial Committee of the Privy Council in relation to matter of doctrine, ritual or ceremonial.
- (6) A decision of a Commission of Review under this Measure or the Ecclesiastical Jurisdiction Measure 1963 is binding on a subsequent Commission under this Measure, except in relation to a matter on which new information or evidence is adduced which was not before the previous Commission.

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**Commencement Information**

**I20** S. 20 in force at 1.9.2018 by S.I. 2018/720, art. 2

*Privy Council appeals*

**21 Appellate jurisdiction of Her Majesty in Council**

- (1) Her Majesty in Council has jurisdiction to hear and determine an appeal from a judgment of the Arches Court of Canterbury or the Chancery Court of York in proceedings under section 14(1)(a) (appeals in faculty cases).
- (2) An appeal under this section may be brought by any party to the proceedings with the permission of Her Majesty in Council.

**Commencement Information**

**I21** S. 21 in force at 1.9.2018 by S.I. 2018/720, art. 2

*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

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- (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.

**Commencement Information**

**I22** S. 22 in force at 1.9.2018 by S.I. 2018/720, art. 2

**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.

**Commencement Information**

**I23** S. 23 in force at 1.9.2018 by S.I. 2018/720, art. 2

**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.

**Commencement Information**

**I24** S. 24 in force at 1.9.2018 by S.I. 2018/720, art. 2

**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

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- (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.

**Commencement Information**

**I25** S. 25 in force at 1.9.2018 by S.I. 2018/720, art. 2

**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—

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- (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.

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**Commencement Information**

**I26** [S. 26](#) in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

**27 Other ecclesiastical jurisdictions**

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

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**Commencement Information**

**I27** [S. 27](#) in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)



**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, PART 1.