

SCHEDULES

SCHEDULE 4

Section 8.

AMENDMENT OF ECCLESIASTICAL JURISDICTION MEASURE 1963

- 1 The Ecclesiastical Jurisdiction Measure 1963 shall be amended as follows.
- 2 In section 2 (judge of consistory court)—
- (a) after subsection (1) there shall be inserted the following subsection—
- “(1A) Before appointing a person to be chancellor of a diocese the bishop shall consult the Lord Chancellor and the Dean of the Arches and Auditor.”;
- (b) in subsection (2) after the words “barrister at law” there shall be inserted the words “or solicitor”;
- (c) in subsection (4)—
- (i) for the words “the last foregoing subsection” there shall be substituted the words “subsections (3) and (4A) of this section”;
- (ii) for the words “of seventy-five years” in both places where they occur there shall be substituted the words “at which a Circuit judge is obliged to vacate that office”;
- (d) after subsection (4) there shall be inserted the following subsection—
- “(4A) Where the bishop of a diocese considers it desirable in the interests of the diocese to retain the chancellor of the diocese in office after the time at which he would otherwise retire in accordance with subsection (4) above, he may from time to time authorise the continuance in office of the chancellor until such date, not being later than the date on which the chancellor attains the age at which a puisne judge of the High Court is obliged to vacate that office, as he thinks fit.”.
- 3 In section 3 (judges of the Arches and Chancery Courts)—
- (a) in subsection (1) for the words “five in number” there shall be substituted the words “as set out in subsection (2) of this section”;
- (b) in subsection (2) at the end there shall be inserted the following paragraph—
- “(d) the others shall be all the diocesan chancellors appointed under section 2 of this Measure (in whichever province), except the chancellor of the diocese in Europe.”;
- (c) in subsection (3) after the word “who” there shall be inserted the words “holds or”;
- (d) in subsection (5) after the words “The appointment of any person” there shall be inserted the words “under paragraph (a), (b) or (c) of subsection (2) of this section”;
- (e) in subsection (6) for the words from the beginning to “his office” there shall be substituted the words “The Dean of the Arches and Auditor and every

Status: This is the original version (as it was originally enacted).

- chancellor of a diocese shall, before he enters on the execution of his office as a judge of the said Courts”;
- (f) in subsection (7) for the words from the beginning to “appointed” there shall be substituted the words “A person appointed under paragraph (b) or (c) of subsection (2) of this section”.
- 4 In section 4 (appointment of deputy judges)—
- (a) in subsection (1)—
- (i) for the words from the beginning to “any chancellor” there shall be inserted the words “Where the Dean of the Arches and Auditor or any chancellor is for any reason unable to act as such, or the office of the Dean or any chancellor is vacant”;
- (ii) for the words “such illness or incapacity” there shall be substituted the words “the period of inability or vacancy”;
- (iii) for the words “person for whom he is appointed to act” there shall be substituted the words “office in respect of which he is appointed to act as deputy”;
- (b) after subsection (1) there shall be inserted the following subsection—
- “(1A) The Dean of the Arches and Auditor or any chancellor may, with the consent of the Archbishops of Canterbury and York in the former case, and the bishop of the diocese concerned in the latter, appoint a fit and proper person to act as deputy Dean of the Arches and Auditor or deputy chancellor of such diocese as the case may be for such period not exceeding twelve months or for such purpose as may be specified in the instrument of appointment, and during that period or for that purpose every person so appointed shall have all the powers and perform all the duties of the office in respect of which he is appointed to act as deputy.”;
- (c) in subsection (2) for the word “subsection” there shall be substituted the word “subsections”.
- 5 In section 6 (jurisdiction of the consistory court) in subsection (1) after paragraph (b) there shall be inserted the following paragraph—
- “(bb) proceedings for an injunction or restoration order under section 13 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991;”.
- 6 In section 7 (jurisdiction of Arches and Chancery Courts)—
- (a) in subsection (1) at the end there shall be inserted the words—
- “or (c) in proceedings for an injunction under section 13(4) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 or for a restoration order under section 13(5) of that Measure, and from interlocutory orders of those consistory courts in causes of faculty involving matter of doctrine, ritual or ceremonial;”
- (b) in subsection (2) at the end there shall be inserted the words “but in a civil suit only with the leave of the consistory court or, if leave is refused by that court, of the Dean of the Arches and Auditor”.
- 7 In section 10 (jurisdiction of Court of Ecclesiastical Causes Reserved)—
- (a) in subsection (3) the words “and such certificate shall be conclusive” shall be omitted;

Status: This is the original version (as it was originally enacted).

(b) at the end there shall be inserted the following subsections—

“(4) In any proceedings in the Court of Ecclesiastical Causes Reserved on an appeal from a judgment, order or decree of a consistory court of a diocese given, made or pronounced in a cause of faculty, the court—

(a) if it 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 relates also to other matter, may, if it considers it expedient to do so, deal with the other matter, but otherwise shall refer it, and

(b) if it considers that no matter of doctrine, ritual or ceremonial is involved, shall refer the appeal (notwithstanding any certificate to the contrary issued under subsection (3) of this section),

to the Arches Court of Canterbury or the Chancery Court of York, as appropriate, to be heard and determined by that court.

(5) In any proceedings in the Arches Court of Canterbury or the Chancery Court of York on an appeal from a judgment, order or decree of a consistory court of a diocese given, made or pronounced in a cause of faculty, the court may, if it considers that the appeal relates to matter involving doctrine, ritual or ceremonial, refer the appeal (notwithstanding any certificate to the contrary issued under subsection (3) of this section) to the Court of Ecclesiastical Causes Reserved to be heard and determined by that court.

(6) Subject to any rules made under section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991, any reference of an appeal under subsection (4) or (5) of this section shall be in accordance with such practice directions as may be issued jointly by the Dean of the Arches and Auditor and the two judges of the Court of Ecclesiastical Causes Reserved appointed in accordance with section 5 of this Measure by virtue of their holding, or having held, high judicial office.”.

8 In section 47 (proceedings in Arches and Chancery Courts) for subsection (1) there shall be substituted the following subsection—

“(1) Proceedings in the Arches Court of Canterbury or the Chancery Court of York shall be heard and disposed of—

(a) in the case of an appeal from a judgment of the consistory court of a diocese given in such proceedings as are mentioned in section 6(1) (a) of this Measure, by all the judges of the Court mentioned in paragraphs (a), (b) and (c) of section 3(2) of this Measure;

(b) in any other case, by the Dean of the Arches and Auditor and two diocesan chancellors designated by him for the purposes of the case.”.

9 In section 60 (powers of courts and commissions in regard to costs) at the end there shall be inserted the following subsections—

Status: This is the original version (as it was originally enacted).

“(5) Where an order for payment of taxed costs has been made under subsection (2) of this section any party to the proceedings may appeal to the chancellor of the diocese in which the proceedings took place against the registrar’s taxation, and on any such appeal the chancellor may confirm or vary the registrar’s taxation.

(6) An appeal under subsection (5) of this section shall be lodged and conducted in such manner as may be prescribed.”

10 In section 66(1) (interpretation) in the definition of “prescribed” for the words “this Measure” there shall be substituted the words “section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991”.

11 In section 81 (evidence and general powers and rights of courts and commissions) for subsections (2) and (3) there shall be substituted the following subsections—

“(2) If any person does or omits to do anything in connection with proceedings before, or with an order made by, such court or commission which is in contempt of that court or commission by virtue of any enactment or which would, if the court or commission had been a court of law having power to commit for contempt, have been in contempt of that court, the judge or presiding judge of the court or the presiding member of the commission, as the case may be, may certify the act or omission under his hand to the High Court.

(3) On receiving a certificate under subsection (2) above the High Court may thereupon inquire into the alleged act or omission and after hearing any witnesses who may be produced against or on behalf of the person who is the subject of the allegation, and after hearing any statement that may be offered in defence, exercise the same jurisdiction and powers as if that person had been guilty of contempt of the High Court.

(4) In this section “order” includes a special citation under subsection (2) of section 13 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 and an injunction under subsection (4) of that section.”.