



# Ecclesiastical Jurisdiction Measure 1963

1963 No. 1

## PART VI

CONDUCT OF PROCEEDINGS AGAINST DEACONS, PRIESTS OR BISHOPS FOR OFFENCES  
UNDER THE MEASURE INVOLVING MATTER OF DOCTRINE, RITUAL OR CEREMONIAL

### *Scope of Part VI*

#### **38 Scope of Part VI.**

The provisions of this Part of this Measure shall have effect for the purpose of regulating proceedings against a deacon, priest, bishop or archbishop against whom a complaint has been laid in accordance with the provisions of Part III of this Measure alleging the commission of an offence against the laws ecclesiastical involving matter of doctrine, ritual or ceremonial.

### *Procedure under Part VI after Laying of Complaint*

#### **39 Duty of diocesan upon the making of a complaint against a deacon or priest.**

- (1) Upon a complaint under this Part of this Measure against a priest or deacon being duly laid and verified the bishop of the diocese before whose registrar it is laid shall take it into consideration and as soon as may be after a copy thereof has been served on the accused, shall afford to the accused and the complainant an opportunity of being interviewed in private by him either separately or together as the bishop thinks fit with respect to the matter of the complaint, and thereafter shall either:—
  - (a) decide that no further step be taken under this Part of this Measure in the matter of the complaint; or
  - (b) refer the complaint for inquiry under the following provisions of this Part of this Measure.
- (2) Where, in pursuance of the foregoing subsection, the bishop decides that no further step be taken in the matter of the complaint he shall forthwith give notice of his

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decision to the complainant and to the accused and thereafter no further action shall be taken by any person in regard thereto.

**40 Duty of archbishop upon the making of a complaint against a bishop.**

Upon a complaint under this Part of this Measure against a bishop being laid and verified the archbishop of the relevant province shall have the same powers and duties in relation thereto as are conferred and imposed upon a diocesan bishop by the last preceding section in regard to a complaint against a priest or deacon and, according to his decision, the like consequences shall ensue as are referred to in such section.

**41 Complaint against an archbishop to stand referred for inquiry.**

A complaint against an archbishop of the nature referred to in section thirty-eight of this Measure duly laid and verified under this Part of this Measure shall thereupon stand referred for inquiry under the following provisions of this Part of this Measure.

**42 Inquiry into complaint by committee of convocation.**

- (1) Where, by virtue of the foregoing provisions of this Part of this Measure, a complaint is referred, or stands referred, for inquiry, the following provisions shall have effect.
- (2) The reference shall be to a committee whose duty it shall be to inquire into the complaint for the purpose of deciding whether there is a case to answer in respect of which the accused should be put on trial upon articles by the Court of Ecclesiastical Causes Reserved, for any offence under this Measure involving matter of doctrine, ritual or ceremonial.
- (3) The committee shall—
  - (a) where the accused is a priest or deacon, consist of—
    - (i) one member of the Upper House of the Convocation of the relevant province, appointed by the archbishop;
    - (ii) two members of the Lower House of that Convocation, appointed by the prolocutor of that House; and
    - (iii) two chancellors of dioceses in that province, appointed by the Dean of the Arches and Auditor;
  - (b) where the accused is an archbishop or a bishop, consist of—
    - (i) such even number of persons, to be appointed by the Upper House of the Convocation of the relevant province, as that House shall determine; and
    - (ii) the Dean of the Arches and Auditor or a deputy who is nominated by him and who shall make a declaration that he is a communicant being a person holding or having held high judicial office, or a <sup>F1</sup>person who has a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990,];

and the determination of any matter before the committee shall be according to the opinion of the majority of the members thereof.
- (4) Either the accused or the complainant may, if he so desires, be assisted or represented by a friend or adviser at any meeting of such a committee at which he is invited to be present.

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- (5) The complainant and the accused may lay before the committee such evidence as they shall think fit and such evidence shall be given by affidavit but the committee shall on the application of either party and may on its own motion request the person making such affidavit to attend the inquiry for the purpose of answering such questions on oath as may be put to him by the committee or by or on behalf of any party, and unless such person shall attend the inquiry for that purpose his affidavit shall be disregarded: Provided that the evidence of any person who is incapable of giving evidence on oath shall be given orally at the inquiry.
- (6) If the committee, after making due inquiry into the complaint, decide that there is a case for the accused to answer in respect of which he should be put on trial upon articles by the Court of Ecclesiastical Causes Reserved for any such offence as aforesaid, they shall declare their decision, specifying the offence.
- (7) Where the committee decide as mentioned in the last foregoing subsection, but are of opinion on consideration of the evidence, of any statement made to them by the accused and of any representations made to them by the bishop of the diocese where the accused is a deacon or a priest—
- (a) that the offence charged by the complaint is too trivial to warrant further proceedings thereon; or
  - (b) that the offence was committed upon extenuating circumstances; or
  - (c) that further proceedings on the complaint would not be in the interests of the Church of England;
- they may dismiss the complaint and report to the Convocation of the relevant province that they have dismissed it and the ground on which they have taken that course.
- (8) If the committee, after making due inquiry into the complaint, decide that there is no case for the accused to answer, they shall declare their decision.
- (9) The committee shall reduce their decision, or decisions, to writing and shall send a copy thereof to the accused and to the Upper House of the Convocation of the relevant province and in the case of an accused archbishop, to the archbishop of the other province.
- (10) Where the committee dismiss a complaint and report their dismissal of it under subsection (7) of this section or declare that there is no case for the accused to answer under subsection (8) of this section, no further step shall be taken in the matter of the complaint.

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#### Textual Amendments

**F1** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), **Sch. 10 para. 18(1)**

### 43 Appointment, of person to promote complaint.

Where a committee inquiring into a complaint declare, in pursuance of subsection (6) of the last foregoing section, their decision that there is a case for the accused to answer and do not dismiss the same under subsection (7) of that section, the Upper House of the Convocation of the relevant province shall nominate a fit person to promote a complaint against the accused in the Court of Ecclesiastical Causes Reserved: Provided that when the accused is an archbishop the Upper House of the Convocation of the relevant province shall for this purpose meet under the presidency of the senior

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diocesan bishop of that province and the accused archbishop shall take no part in the proceedings of the said meeting.

#### **44 Contents of articles.**

Where a person is prosecuted by virtue of the foregoing provisions of this Part of this Measure, the articles may with the leave of the committee who inquired into the complaint or of the Court of Ecclesiastical Causes Reserved include, either in substitution for or in addition to, particulars of the offence or offences specified by that committee, particulars of any other offence founded on evidence disclosed in the course of the committee's inquiry, being particulars of an offence involving matter of doctrine, ritual or ceremonial.

#### **45 Conduct of trial under Part VI.**

- (1) The following provisions shall have effect with respect to the trial of a person by the Court of Ecclesiastical Causes Reserved under this Part of this Measure, namely:—
  - (a) the procedure at the trial shall, so far as circumstances admit and subject to any rules which may be prescribed, be the same as at the trial of a person by a court of assize exercising criminal jurisdiction;
  - (b) the accused shall be entitled to be supplied with a copy of the articles;
  - (c) the rules as to the admissibility of evidence and as to whether a witness is competent or compellable to give evidence shall be the same as those observed at the trial of a person by such a court of assize;
  - (d) the registrar before whom the complaint was laid shall give not less than fourteen clear days' notice of the sittings of the court to the promoter thereof and to the accused and at any sitting the court may proceed in the absence of the accused if satisfied that he was given proper notice of the sitting;
  - (e) the court, if satisfied that it is in the interests of justice so to do, may give directions that during any part of the proceedings such person or persons as the court may determine shall be excluded;
  - (f) the determination of any matter before the court shall be according to the opinion of the majority of the members thereof;
  - (g) if the accused shall be found guilty of an offence charged, the court shall decide such censure therefor as is warranted by the following provisions of this Measure;
  - (h) the censure shall be reduced to writing by the court, shall be pronounced in open court by the person presiding over the court and shall not be invalid by reason only that it is not pronounced in the presence of the accused.
- (2) For the purposes of this section it shall be the duty of the Upper Houses of the Convocations of Canterbury and York jointly to draw up, with the approval of the Lower Houses of those Convocations, and from time to time to revise, with the like approval, a panel of persons each of whom shall be an eminent theologian or an eminent liturgiologist, and the Court of Ecclesiastical Causes Reserved shall, when trying a person sit with not less than three nor more than five advisers selected by the Dean of the Arches and Auditor from amongst the members of the panel.
- (3) In the exercise of its jurisdiction under this Measure the Court of Ecclesiastical Causes Reserved shall not be bound by any decision of the Judicial Committee of the Privy Council in relation to matter of doctrine ritual or ceremonial.

**Changes to legislation:**

There are currently no known outstanding effects for the Ecclesiastical Jurisdiction Measure 1963, Part VI.