

## **Section G**

# **The Ecclesiastical Courts**



## **G 1 Of Ecclesiastical Courts and Commissions**

The Ecclesiastical Courts which are or may be constituted in accordance with the provisions of the Ecclesiastical Jurisdiction Measure 1963 and the Clergy Discipline Measure 2003 are as follows:

1. For each diocese the court of the bishop thereof, called the Consistory Court of the diocese or, in the case of the diocese of Canterbury, the Commissary Court thereof, for the trial of faculty and other cases as provided in the Ecclesiastical Jurisdiction Measure 1963.

1A. A tribunal for the diocese in question (to be called the bishop's disciplinary tribunal) for the hearing of disciplinary proceedings against a priest or deacon not involving matters of doctrine, ritual or ceremonial as provided in the Clergy Discipline Measure 2003.

2. For each of the provinces of Canterbury and York –

(a) a court of the archbishop (to be called in the case of the court of the province of Canterbury the Arches Court of Canterbury, and, in the case of the court for the province of York, the Chancery Court of York) having appellate jurisdiction as provided in the Ecclesiastical Jurisdiction Measure 1963.

(b) the Vicar-General's court constituted in accordance with the Clergy Discipline Measure 2003 for the hearing of disciplinary proceedings against a bishop or an archbishop not involving matters of doctrine, ritual or ceremonial as provided in that Measure.

3. For both of the said provinces a court called the Court of Ecclesiastical Causes Reserved for the trial of offences against the laws ecclesiastical involving doctrine, ritual, or ceremonial and all suits of *duplex querela*. The court also has appellate jurisdiction in faculty causes involving doctrine, ritual, or ceremonial.

4. There may be appointed by Her Majesty a Commission of Review, to review any finding of the Court of Ecclesiastical Causes Reserved.

4A. The Arches Court of Canterbury and the Chancery Court of York have jurisdiction to hear appeals from the bishop's disciplinary tribunal referred to in paragraph 1A above and from the Vicar-General's court constituted as mentioned in paragraph 2(b) above.

5. Her Majesty in Council has jurisdiction to hear appeals from the Court of Arches or the Chancery Court in faculty causes not involving matter of doctrine, ritual, or ceremonial.

## **G 2 Of the chancellor or judge of a Consistory Court**

1. The judge of the Consistory Court of a diocese is styled the chancellor of the diocese or, in the case of the diocese of Canterbury, the commissary general, and is appointed by the bishop of the diocese.

2. The qualifications of a person appointed to be chancellor of a diocese are that he shall be at least 30 years old and either a person who has a 7-year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 or a person who has held high judicial office. Before appointing a layman, the bishop must satisfy himself that the person to be appointed is a communicant.

3. The chancellor of a diocese, a person appointed to act as deputy chancellor of a diocese and a person appointed to preside over a court by virtue of section 27(1) of the Ecclesiastical Jurisdiction Measure 1963, before he enters on the execution of his office, is required to take, either before the bishop of the diocese in the presence of the diocesan registrar, or in open court in the presence of the registrar –

(a) the Oath of Allegiance, in the same form as in Canon C 13;

(b) the following oath:

I, A B, 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.

If he is a layman, he is also required to make and subscribe, in the like circumstances, the Declaration of Assent in the following form:

I, A B, declare my belief in the faith which is revealed in the Holy Scriptures and set forth in the catholic creeds and to which the historic formularies of the Church of England bear witness.

### **G 3 Of the judges of the Arches Court of Canterbury and the Chancery Court of York**

1. The judges of the Arches Court of Canterbury and the Chancery Court of York respectively are five in number.
2. Of the judges of each of the said courts:
  - (a) one, who is a judge of both courts (and, in respect of his jurisdiction in the province of Canterbury, is styled Dean of the Arches and, in respect of his jurisdiction in the province of York, is styled Auditor) is appointed by the Archbishops of Canterbury and York jointly with the approval of Her Majesty;
  - (b) two are persons in holy orders appointed by the Prolocutor of the Lower House of the Convocation of the relevant province;
  - (c) two are laymen appointed by the Chairman of the House of Laity after consultation with the Lord Chancellor and possessing such judicial experience as the Lord Chancellor thinks appropriate.
  - (d) the others are all the diocesan chancellors appointed under section 2 of the Ecclesiastical Jurisdiction Measure 1963 except the chancellor of the diocese of Gibraltar in Europe.
3. The qualifications of a person appointed to the Dean of the Arches and Auditor are that he should be either a person who has a ten-year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 or a person who has held high judicial office, and, before appointing a layman, the archbishops must satisfy themselves that he is a communicant.
4. Before the Chairman of the House of Laity appoints a person to be a judge of either of the said courts, he must satisfy himself that that person is a communicant.
5. The Dean of the Arches and Auditor and a person appointed to act as deputy Dean of the Arches and Auditor, before he enters on the execution of his office, is required to take –

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- (i) 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
- (ii) in open court in both of these provinces in the presence of the registrar of the province the oaths specified in paragraph 3 of Canon G 2, and, if he is a layman, to make and subscribe, in like circumstances, the declaration therein specified.

6. A person (other than the Dean of the Arches and Auditor) appointed to hold the office of a judge of either of the said courts is required, before he enters on the execution of his office, to take the said oaths either before the archbishop of the relevant province and in the presence of the registrar of that province, or in open court in the presence of that registrar, and, if he is a layman, to make and subscribe, in the like circumstances, the said declaration.

## **G 4 Of registrars**

1. The registrar of a province and of the provincial court is appointed by the archbishop of that province, and the registrar of a diocese and its consistory court is appointed by the bishop of the diocese.
2. The qualifications of a person appointed to be such a registrar as aforesaid are that he should be a person who has a general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 learned in the ecclesiastical laws and the laws of the realm; and the archbishop or bishop appointing him must satisfy himself that the said person is a communicant.
3. A registrar, before he enters on the execution of his office, is required to take, in the presence of the archbishop or bishop, as the case may be, the oaths specified in paragraph 3 of Canon G 2, and to make and subscribe, in the like presence, the declaration therein specified.

## **G 5 Of visitations**

1. Every archbishop, bishop, and archdeacon has the right to visit, at times and places limited by law or custom, the province, diocese, or archdeaconry committed to his charge, in a more solemn manner, and in such visitation to perform all such acts as by law and custom are assigned to his charge in that behalf for the edifying and well-governing of Christ's flock, that means may be taken thereby for the supply of such things as are lacking and the correction of such things as are amiss.

2. During the time of such visitation the jurisdiction of all inferior Ordinaries shall be suspended save in places which by law or custom are exempt.

## **G 6 Of presentments**

1. Every archbishop, bishop, and archdeacon, and every other person having ecclesiastical jurisdiction, when they summon their visitation, shall deliver or cause to be delivered to the minister and churchwardens of every parish, or to some of them, such articles of inquiry, as they, or any of them, shall require the minister and churchwardens to ground their presentments upon.

2. With the said articles shall be delivered the form of declaration which must be made immediately before any such presentment, to the intent that the minister and churchwardens having had beforehand sufficient time to consider both what their said declarations shall be, and also the articles upon which they are to ground their presentments, may frame them advisedly and truly according to their consciences.

