1964 No. 1755

ECCLESIASTICAL LAW

The Ecclesiastical Jurisdiction (Discipline) Rules 1964

Made (Approved by the Church Assembly) -	*3rd November* 1964
Laid before Parliament	*11th November* 1964
Coming into Operation	*1st March* 1965

In pursuance of section 65 of the Ecclesiastical Jurisdiction Measure, 1963(a), the Rule Committee constituted under section 64 of the said Measure hereby make the following rules: —

PRELIMINARY

Citation, commencement and interpretation

1. These rules may be cited as the Ecclesiastical Jurisdiction (Discipline) Rules 1964, and shall come into force on the first day of March 1965.

2.—(1) In these rules, unless the context otherwise requires:

"the complainant" means, in relation to a complaint, the person or persons by whom the complaint was laid;

"the Dean of the Arches and Auditor" includes a person appointed to act as his deputy under section 4 of the Measure;

"the judge of the consistory court" means the chancellor of the diocese and includes a person appointed to act as his deputy under section 4 of the Measure and also, for the purposes of any proceedings in respect of which a person is appointed under section 27 of the Measure, the person so appointed;

"the Measure" means the Ecclesiastical Jurisdiction Measure 1963;

"the promoter" means, in relation to a complaint and proceedings arising thereon, the person nominated under section 25, section 33(7), or section 43 of the Measure, as the case may be, to promote the complaint;

"the registrar" means, in relation to a complaint the registrar of a province or diocese before whom the complaint was laid, and includes any person appointed to act as deputy registrar.

(2) The Interpretation Measure 1925(b) shall apply for the interpretation of these rules as it applies for the interpretation of Church Assembly Measures.

INSTITUTION OF PROCEEDINGS IN RESPECT OF OFFENCES (PART III OF MEASURE)

Laying of complaint

3.—(1) The laying of a complaint before the registrar of a province or diocese under section 18 of the Measure in respect of any offence shall be effected in accordance with the following provisions of this rule.

(a) 1963 No. 1. (b) 15 & 16 Geo. 5. No. 1.

(2) Three copies of the complaint shall be lodged with the registrar, and it shall be in the appropriate form set out in the Appendix. Forms 1 and 2.

(3) The complaint shall be signed by the person or, as the case may be, each of the persons by whom it is laid, and shall state the authority or qualification of that person or, as the case may be, each of those persons for laying the complaint and shall state the offence or offences charged and give particulars of the alleged acts or omissions constituting the offence or, as the case may be, each of the offences charged, and shall state the complainant's address for service.

(4) The complaint shall be verified by an affidavit sworn by the person or, as the case may be, each of the persons by whom it is laid, and the original affidavit or affidavits and one copy thereof shall be lodged with the registrar. Form 3.

(5) If the complaint is laid by a person authorised by a bishop or an archbishop to do so, a certificate signed by the bishop or archbishop and certifying his authority shall, subject as hereinafter provided, be lodged with the registrar. Form 4.

(6) If the complaint is laid by persons qualified by having their names on the electoral roll of a parish or conventional district or guild church, a certificate or certificates signed by a churchwarden of the parish, district or church or by the secretary of the parochial church council or guild church council and verifying the qualification of each of those persons shall, subject as hereinafter provided, be lodged with the registrar. Form 5.

(7) If the persons by whom a complaint is laid include persons qualified as lay members of a diocesan conference, a certificate or certificates signed by the secretary of the conference and verifying the qualification of each of those persons shall, subject as hereinafter provided, be lodged with the registrar. Form 6.

(8) The registrar may dispense with any such certificate as aforesaid in a case where he is otherwise satisfied of the qualification of any such person.

(9) If the registrar is satisfied that the foregoing provisions of this rule have been complied with, he shall seal one copy of the complaint with the seal of the registry and return it to the complainant, and shall complete the laying of the complaint by filing another copy thereof in the registry.

(10) The registrar shall give the third copy of the complaint—

(*a*) where the accused is a priest or deacon, to the bishop of the diocese of which he is the registrar;

(*b*) where the accused is a bishop, to the archbishop of the relevant province; or

(*c*) where the accused is an archbishop, to the senior of the diocesan bishops of the relevant province, excluding any bishops laying the complaint, seniority being determined in accordance with section 67 of the Measure.

Service of a complaint

4.—(1) When a complaint has been duly laid before the registrar, the complainant shall within 28 days after the laying of the complaint

serve on the accused a copy of the complaint and of the affidavit or affidavits verifying the complaint.

(2) The service must be personal service, and rule 58(1) shall apply thereto.

(3) The complainant shall at the same time serve 2 copies of a Form 7. form of statement of the accused's address for service, and the accused shall complete and sign both copies and serve one on the complainant and lodge the other with the registrar.

PROCEDURE AFTER LAYING OF COMPLAINT AGAINST PRIEST OR DEACON FOR OFFENCE NOT INVOLVING DOCTRINE ETC. (PART IV OF MEASURE)

Dismissal of complaint by bishop

5. If the bishop decides under section 23 of the Measure that no further step be taken in the matter of the complaint, he shall, in addition to the notices required by that section to be given to the complainant and to the accused, give written notice of his decision to the registrar, who shall file it in the registry.

Reference of complaint to examiner

6.—(1) If the bishop refers the complaint under the said section 23 for inquiry by an examiner, he shall notify the registrar accordingly, and the registrar shall thereupon fix a time and place for the selection of the examiner under Part I of the Second Schedule to the Measure.

(2) The registrar shall give not less than 7 days' notice in writing of the time and place so fixed to the complainant and the accused, and the notice shall inform them of their right under paragraph 2 of the said Schedule to be present by themselves or their representatives.

(3) The registrar shall forthwith give notice in writing of the name of the examiner selected, to the complainant and the accused.

Proceedings before Examiner

7.—(1) Within 14 days after receiving notice of the name of the examiner, the complainant shall lodge with the registrar the original and one copy of the affidavits containing the evidence which he proposes to lay before the examiner under section 24(3) of the Measure and 2 copies of a notice in writing stating the name of any person whom he is proposing to call to give oral evidence at the inquiry by virtue of the proviso to the said section 24(3), and shall serve one copy of the affidavits and notice (if any) on the accused within the said period or as soon as possible thereafter.

(2) The service on the accused must be personal service, and rule 58(1) shall apply thereto.

(3) Within 14 days after the service of copies of the complainant's affidavits, the accused shall lodge with the registrar the original and one copy of the affidavits containing the evidence which he proposes to lay before the examiner under the said section 24(3) and of a notice in writing stating the name of any person whom he is proposing to call to give oral evidence at the inquiry by virtue of the proviso to the said section 24(3), and shall serve one copy of the affidavits and notice (if any) on the complainant within the said period.

(4) No further affidavits shall be laid before the examiner, except with the leave of the registrar.

8.—(1) The examiner shall as soon as possible after his selection fix the time and place at which the inquiry will be held, and it shall be not less than 28 days after his selection, and the registrar shall give not less than 14 days' notice in writing of the time and place so fixed to the complainant and the accused.

(2) If it is necessary for the inquiry to be adjourned, the examiner shall fix the time and place at which the inquiry will be resumed.

(3) Either the complainant or the accused may apply to the registrar for a postponement of the inquiry or, as the case may be, of the adjourned hearing and, if the application is granted, the inquiry or hearing shall be postponed to such later time as the examiner may fix, and the registrar shall give not less than 7 days' notice in writing to the parties of the time so fixed.

(4) The examiner may at any time of his own motion postpone the inquiry or, as the case may be, the adjourned hearing to such later time as he may fix, and the registrar shall give not less than 7 days' notice in writing thereof to the parties.

9.—(1) Any application to the examiner under section 24(3) of the Measure to request the attendance at the inquiry of a person making an affidavit shall be lodged with the registrar not less than 10 days before the day fixed for the inquiry, and any request by the examiner for the attendance of any such person shall be made in writing not less than 4 days before his attendance is required. Form 8. Form 9.

(2) If the examiner of his own motion requests the attendance of any such person, the registrar shall give notice in writing of the request to each party.

10. The examiner shall give copies of his decision to the complainant and to the registrar, as well as to the persons to whom he is required to give copies thereof by section 24(6) of the Measure, and the registrar shall file his copy in the registry.

Pronouncement of censure by bishop with consent

11.—(1) If the accused wishes the bishop of the diocese before whose registrar the complaint was laid to exercise his power under section 31 of the Measure to pronounce a censure on him with his consent, he may lodge with the registrar 2 copies of an application to the bishop to that effect. Form 10.

(2) The application shall state the extent to which the accused admits the offence or offences charged and the allegations contained in the complaint, and the accused shall serve a copy thereof on the complainant.

(3) If the bishop decides to exercise his power under the said section, the registrar shall give not less than 7 days' notice in writing to the accused and the complainant of the time and place at which the censure will be pronounced, and they shall be entitled to be present; and the registrar shall attend the bishop when he pronounces sentence.

(4) The censure shall be reduced to writing and copies thereof shall be given to the accused and the complainant and to the registrar, who shall file his copy in the registry.

(5) If the bishop decides not to exercise his power under the said section, he shall give notice in writing of his decision to the accused and to the registrar and, if he has consulted with the complainant in accordance with the said section, to the complainant, and the registrar shall file the notice in the registry.

Articles and answer thereto

12.—(1) Subject to the following provisions of this rule, the person nominated to promote a complaint under section 25 of the Measure shall, within 28 days after his nomination, lodge with the registrar 6 copies
Form 11. of the articles charging the offence or offences specified by the examiner,
Form 12. together with a certificate of his nomination signed by the bishop, and shall within the said period or as soon as possible thereafter serve a copy of the said articles on the accused.

The registrar shall forthwith give one of the copies lodged with him to the judge of the consistory court, and 4 copies shall be available for the assessors.

(2) If the promoter wishes to apply to the examiner or the consistory court under section 26 of the Measure for leave to include in the articles particulars of any offence not specified by the examiner, being an offence founded on evidence disclosed in the course of the inquiry by the examiner, he shall lodge with the registrar, within 14
Form 13. days after his nomination, 2 copies of an application in writing stating the offences to be included and the evidence on which he relies, and whether the application is to the examiner or the court, and shall within the said period or as soon as possible thereafter serve a copy of the application on the accused.

(3) The registrar shall give not less than 7 days' notice in writing to the promoter and the accused of the time and place of the hearing of the application.

(4) If such an application is refused by the examiner, a subsequent application may be made to the consistory court, and paragraphs (2) and (3) of this rule shall apply thereto, except that the period for lodging the application shall be 7 days after the date of the refusal of the previous application.

(5) If any application or applications is or are made under this rule, the period within which the articles must be lodged with the registrar shall extend to 21 days after the date of the decision or, as the case may be, the second decision, and paragraph (1) of this rule shall apply accordingly.

(6) The service on the accused of a copy of the articles and of any application under this rule must be personal service, and rule 58(1) shall apply thereto.

13.—(1) The accused may, within 14 days after the service on him of the articles, lodge with the registrar 6 copies of an answer to the articles and serve one copy on the complainant.

The registrar shall give one of the copies lodged with him to the judge of the consistory court, and 4 copies shall be available for the assessors.

(2) If an answer is lodged, it shall admit or deny the offence, or if the articles specify two or more offences, each of the offences; and may also admit or deny, or give the accused's account or explanation of, the matters alleged in the articles to constitute the offence or offences.

Fixing day of trial

14.—(1) As soon as possible after he has received a copy of the articles, the judge of the consistory court shall fix a time and place for the trial, and the time shall not be less than 28 days after the lodging of the articles(a).

(2) Either the promoter or the accused may apply to the registrar for a postponement of the time fixed for the trial and, if the application is granted, the trial shall be at such later time as the judge may fix(a).

(3) The judge may at any time of his own motion postpone the time fixed for the trial.

Selection of Assessors

15.—(1) The registrar shall fix a time and place for the selection, in accordance with Part II of the Second Schedule to the Measure, of the 4 assessors with whom the consistory court is required to sit, and the time so fixed shall be not less than 15 days before the day fixed for the trial.

(2) The registrar shall give not less than 7 days' notice in writing of the time and place so fixed to the promoter and the accused, and the notice shall inform them of their right under paragraph 6 of the said Schedule to be present by themselves or their representatives. Form 14.

(3) The registrar shall forthwith give notice in writing of the names of the assessors selected to the promoter and the accused, and shall inform the judge of the consistory court.

(4) Any objection by either party to an assessor so selected shall be made in writing and lodged with the registrar within 7 days after the receipt of the notice of the assessor so selected, and the objection shall state the reasons therefor and, if the judge approves the reasons, the registrar shall (without prejudice to paragraph 8 of the Second Schedule to the Measure) endeavour to arrange another ballot, with notice to the parties, for the selection of another assessor before the trial. Form 15.

Proceedings at trial

16.—(1) The judge of the consistory court may at the hearing, if he thinks that the interests of justice so require,—

(*a*) allow the promoter to withdraw the articles or, if two or more offences are charged, to withdraw the charge or charges in respect of one or some of those offences ;

(*b*) allow the promoter to amend the articles in any other way, but not so as to charge any new offence ;

(*c*) allow the accused, if he has not lodged an answer to the articles, to put in an answer ;

(*d*) allow the accused to amend his answer.

(2) If either party proposes to apply to the court to exercise any of its powers under this rule, he shall if practicable give notice in writing to the other party and the registrar, but the court may nonetheless exercise the said powers without notice. Forms 16 and 17.

(a) s. 28 (*d*) of the Measure requires not less than 14 clear days' notice of the sittings of the court to be given by the registrar to the promoter and the accused

(3) If the judge exercises his powers under this rule, he may do so on such terms, including the adjournment of the trial, as he thinks just.

(4) If the accused admits any offence charged by the articles or any act or omission alleged by the articles, the judge may treat the offence or the act or omission as proved and dispense with any evidence thereof, or may require such evidence as he thinks fit.

(5) If the accused has not lodged an answer and does not put in an answer under this rule, he shall be treated as having denied the offence or offences charged by the articles.

(6) If the answer of the accused fails to state or make clear whether he admits or denies any offence or allegation, he shall be treated as having denied it.

17.—(1) Without prejudice to section 28 of the Measure (which contains provisions as to the procedure at the trial), the following provisions of this rule shall apply with respect to the evidence at the trial.

(2) Subject as hereinafter provided, the evidence shall be given orally and on oath and in open court.

Forms 18 and 19.

(3) The registrar may, on an application by either party before the hearing, or the judge may, on an application by either party made at the hearing, allow the evidence of any witness to be taken before an examiner, if he is satisfied that the witness is unable to attend at the trial by reason of illness, and allow the depositions so taken to be given in evidence.

(4) If either party proposes to make such an application at the hearing, he shall if practicable give notice in writing to the other party and to the registrar, but the court may nonetheless exercise its powers aforesaid without notice.

(5) An order for the giving of evidence by deposition may be made on such terms as the registrar or judge may direct.

(6) If an order is made for the taking of evidence before an examiner,—

(*a*) the judge may undertake the examination himself, and shall otherwise appoint in writing a fit person to be the examiner ;

(*b*) the examiner shall fix the time and place for the examination, and the registrar shall give 7 days' notice thereof to both parties, who shall be entitled to attend ;

(*c*) the witness shall be subject to examination and cross-examination.

(7) The party on whose application an order is made under this rule shall lodge the original depositions and 5 copies thereof with the registrar and shall serve one copy thereof on the other party.

New trial

18.—(1) If the judge of the consistory court orders the retrial of the accused under section 29 of the Measure, rule 15 shall apply for the purpose of selecting assessors for the retrial, and rules 16 and 17 shall apply to the proceedings at the retrial, in like manner as they apply to the trial.

(2) Unless the judge fixes the time and place of the retrial in the presence of the parties, the registrar shall give not less than 14 days' notice thereof.

(3) If the judge under the said section pronounces the accused to be acquitted of the offence or offences of which he is charged, the pronouncement shall be reduced to writing and copies thereof shall be given to both parties, and the registrar shall file a copy in the registry.

PROCEDURE AFTER LAYING OF COMPLAINT AGAINST BISHOP FOR OFFENCE NOT INVOLVING MATTER OF DOCTRINE ETC. (PART V OF MEASURE)

Proceedings before episcopal committee

19.—(1) The registrar, as soon as he knows the composition of the episcopal committee constituted under section 33(3) of the Measure to enquire into the complaint, and the name of the person summoned under section 33(4) to sit with them and act as their assessor in matters of law, shall give notice in writing of the names of the committee and the assessor to the complainant and the accused.

(2) Within 14 days after receiving the said notice, the complainant shall lodge with the registrar the original and 5 copies of the affidavits containing the evidence which he proposes to lay before the said committee under section 33(6) of the Measure and 5 copies of a notice in writing stating the name or names of the person or persons, if any, whom he is proposing to call to give oral evidence at the inquiry by virtue of the proviso to the said section 33(6), and shall serve one copy of the affidavits and notice (if any) on the accused within the said period or as soon as possible thereafter.

(3) The service on the accused must be personal service and rule 58(1) shall apply thereto.

(4) Within 14 days after the service by the complainant of the copies of affidavits and the notice aforesaid, the accused shall lodge with the registrar the original and 4 copies of the affidavits containing the evidence which he proposes to lay before the committee under the said section 33(6) and 5 copies of a notice in writing stating the name or names of the person or persons, if any, whom he is proposing to call to give oral evidence at the inquiry by virtue of the proviso to the said section 33(6), and shall serve one copy of the affidavits and notice (if any) on the complainant within the said period.

(5) No further affidavits shall be laid before the committee, except with the leave of the registrar.

20.—(1) The said committee shall as soon as possible fix the time and place at which the inquiry will be held, and it shall be not less than 28 days after the notification of the names of the committee and the assessor under the last foregoing rule, and the registrar shall give not less than 14 days' notice in writing of the time and place so fixed to the complainant and the accused.

(2) If it is necessary for the inquiry to be adjourned, the committee shall fix the time and place at which the inquiry will be resumed.

(3) Either the complainant or the accused may apply to the registrar for a postponement of the inquiry or, as the case may be, of the adjourned hearing and, if the application is granted, the inquiry

or hearing shall be postponed to such later time as the committee may fix, and the registrar shall give not less than 7 days' notice in writing to the parties of the time so fixed.

(4) The committee may at any time of their own motion postpone the inquiry or, as the case may be, the adjourned hearing to such later time as they may fix and the registrar shall give not less than 7 days' notice in writing thereof to the parties.

Form 20. **21.**—(1) Any application to the committee under section 33(6) of the Measure to request the attendance at the inquiry of a person making an affidavit shall be lodged with the registrar not less than 10 days Form 21. before the day fixed for the inquiry, and any request by the committee for the attendance of any such person shall be made in writing not less than 4 days before his attendance is required.

(2) If the committee of its own motion requests the attendance of any such person, the registrar shall give notice in writing of the request to each party.

22. The committee shall send copies of their decision to the complainant and to the registrar, as well as to the persons to whom they are required to send copies thereof by section 33(9) of the Measure, and the registrar shall file his copy in the registry.

Articles and answer thereto

23.—(1) Subject to the following provisions of this rule, the person nominated to promote a complaint under section 33(7) of the Measure shall, within 28 days after his nomination, lodge with the registrar Form 22. 6 copies of the articles charging the offence or offences specified by Form 23. the committee, together with a certificate of his nomination signed by a member of the committee, and shall within the said period or as soon as possible thereafter serve a copy of the said articles on the accused.

The registrar shall forthwith give 5 of the copies lodged with him to the 5 members of the Commission of Convocation appointed under section 35 of the Measure.

(2) If the promoter wishes to apply to the said committee or commission under section 34 of the Measure for leave to include in the articles particulars of any offence not specified by the committee, being an offence founded on evidence disclosed in the course of the inquiry by the committee, he shall lodge with the registrar, within Form 24. 14 days after his nomination, 6 copies of an application in writing stating the offence to be included and the evidence on which he relies, and whether the application is to the committee or to the commission, and shall within the said period or as soon as possible thereafter serve a copy of the application on the accused.

(3) The registrar shall give not less than 7 days' notice in writing to the promoter and the accused of the time and place of the hearing of the application.

(4) If such an application is refused by the committee, a subsequent application may be made to the commission, and paragraphs (2) and (3) of this rule shall apply thereto, except that the period for lodging the notice of the application shall be 7 days after the date of the refusal of the previous application.

(5) If any application or applications is or are made under this rule, the period within which the articles must be lodged with the

registrar shall extend to 21 days after the date of the decision or, as the case may be, the second decision, and paragraph (1) of this rule shall apply accordingly.

(6) The service on the accused of a copy of the articles and of any application under this rule must be personal service, and rule 58(1) shall apply thereto.

24.—(1) The accused may, within 14 days after the service on him of the articles, lodge with the registrar 6 copies of an answer to the articles and serve one copy on the complainant.

The registrar shall give 5 of the copies lodged with him to the 5 members of the Commission of Convocation.

(2) If an answer is lodged, it shall admit or deny the offence, or if the articles specify two or more offences, each of the offences, and may also admit or deny, or give the accused's account or explanation of, the matters alleged in the articles to constitute the offence or offences.

Fixing day of trial

25.—(1) As soon as possible after he has received a copy of the articles, the Dean of the Arches and Auditor shall fix a time and place for the trial, and the time shall be not less than 28 days after the lodging of the articles.

(2) Either the promoter or the accused may apply to the registrar for a postponement of the time fixed for the trial and, if the application is granted, the trial shall be at such later time as the Dean of the Arches and Auditor may fix(a).

(3) The Dean of the Arches and Auditor may at any time of his own motion postpone the time fixed for the trial.

Proceedings at trial.

26.—(1) The Commission of Convocation may at the hearing, if they think that the interests of justice so require,—

(*a*) allow the promoter to withdraw the articles or, if two or more offences are charged, to withdraw the charge or charges in respect of one or some of those offences;

(*b*) allow the promoter to amend the articles in any other way, but not so as to charge any new offence;

(*c*) allow the accused, if he has not lodged an answer to the articles, to put in an answer.

(*d*) allow the accused to amend his answer.

(2) If either party proposes to apply to the court to exercise any of its powers under this rule, he shall if practicable give notice in writing to the other party and the registrar, but the court may nonetheless exercise the said powers without notice. Forms 25 and 26.

(3) If the commission exercise their powers under this rule, they may do so on such terms, including the adjournment of the trial, as they think just.

(4) If the accused admits any offences charged by the articles or any act or omission alleged by the articles, the commission may treat the offence or the act or omission as proved and dispense with any evidence thereof, or may require such evidence as they think fit.

(a) s. 36 (*e*) of the Measure requires not less than 14 clear days' notice of the sittings of the court to be given by the registrar to the promoter and the accused.

(5) If the accused has not lodged an answer and does not put in an answer under this rule, he shall be treated as having denied the offence or offences charged with the articles.

(6) If the answer of the accused fails to state or make clear whether he admits or denies any offence or allegation, he shall be treated as having denied it.

27.—(1) Without prejudice to section 36 of the Measure (which contains provisions as to the procedure at the trial), the following provisions of this rule shall apply with respect to the evidence at the trial.

(2) Subject as hereinafter provided, the evidence shall be given orally and on oath and in open court.

Forms 27 and 28.

(3) The registrar may, on an application by either party before the hearing, or the commission may, on an application by either party made at the hearing, allow the evidence of any witness to be taken before an examiner, if the registrar or commission is satisfied that the witness cannot attend at the trial by reason of illness, and allow the depositions so taken to be given in evidence.

(4) If either party proposes to make such an application at the hearing, he shall if practicable give notice in writing to the other party and to the registrar, but the commission may nonetheless exercise its powers aforesaid without notice.

(5) An order for the giving of evidence by deposition may be made on such terms as the registrar or commission may direct.

(6) If an order is made for the taking of evidence before an examiner,—

(*a*) the Dean of the Arches and Auditor may undertake the examination himself, and shall otherwise appoint in writing a fit person to be the examiner;

(*b*) the examiner shall fix the time and place for the examination, and the registrar shall give 7 days' notice thereof to both parties who shall be entitled to attend;

(*c*) the witness shall be subject to examination and cross-examination.

(7) The party on whose application an order is made under this rule shall lodge the original depositions and 5 copies thereof with the registrar and shall serve one copy thereof on the other party.

Time for pronouncement of censure

28. Where the finding is one of guilt, the censure shall not be pronounced under section 37 of the Measure until the time for lodging a petition under rule 44 has expired or, if a petition is lodged, until the proceedings thereon have been finally concluded.

PROCEDURE AFTER LAYING OF COMPLAINT FOR OFFENCE INVOLVING MATTER OF DOCTRINE ETC. (PART VI OF MEASURE)

Dismissal of complaint by bishop or archbishop

29. If the bishop decides under section 39 of the Measure, or the archbishop decides under section 40 of the Measure, that no further step be taken in the matter of the complaint, he shall, in addition to the notices required by those sections to be given to the complainant and to the accused, give written notice of his decision to the registrar, who shall file it in the registry.

Proceedings before committee of convocation

30.—(1) The registrar shall, as soon as he knows the composition of the committee constituted under section 42(3) of the Measure to enquire into the complaint, give notice in writing of the names of the committee to the complainant and the accused.

(2) Within 14 days after receiving the said notice, the complainant shall lodge with the registrar the original and a sufficient number of copies for the registrar and the members of the committee of the affidavits containing the evidence which he proposes to lay before the committee under section 42(5) of the Measure, and the same number of copies of a notice in writing stating the name or names of the person or persons, if any, whom he is proposing to call to give oral evidence at the inquiry by virtue of the proviso to the said section 42(5), and shall serve one copy of the affidavits and notice (if any) on the accused within the said period or as soon as possible thereafter.

(3) The service on the accused must be personal service, and rule 58(1) shall apply thereto.

(4) Within 14 days after the service by the complainant of the copies of affidavits and the notice aforesaid, the accused shall lodge with the registrar the original and a sufficient number of copies as aforesaid of the affidavits containing the evidence which he proposes to lay before the committee under the said section 33(6) and the same number of copies of a notice in writing stating the name or names of the person or persons, if any, whom he is proposing to call to give oral evidence at the inquiry by virtue of the proviso to the said section 42(5), and shall serve one copy of the affidavits and notice (if any) on the complainant within the said period.

(5) No further affidavits shall be laid before the committee, except with the leave of the registrar.

31.—(1) The said committee shall as soon as possible fix the time and place at which the inquiry will be held, and it shall be not less than 28 days after the notification of the names of the committee under the last foregoing rule, and the registrar shall give not less than 14 days' notice in writing of the time and place so fixed to the complainant and the accused.

(2) If it is necessary for the inquiry to be adjourned, the committee shall fix the time and place at which the inquiry will be resumed.

(3) Either the complainant or the accused may apply to the registrar for a postponement of the inquiry or, as the case may be, of the adjourned hearing and, if the application is granted, the inquiry or hearing shall be postponed to such later time as the committee may fix, and the registrar shall give not less than 7 days' notice in writing to the parties of the time so fixed.

(4) The committee may at any time of their own motion postpone the inquiry or, as the case may be, the adjourned hearing to such later time as they may fix and the registrar shall give not less than 7 days' notice in writing thereof to the parties.

Form 29. **32.**—(1) Any application to the committee under section 42(5) of the Measure to request the attendance at the inquiry of a person making an affidavit shall be lodged with the registrar not less than 10 days before
Form 30. the day fixed for the inquiry, and any request by the committee for the attendance of any such person shall be made in writing not less than 4 days before his attendance is required.

(2) If the committee of its own motion requests the attendance of any such person, the registrar shall give notice in writing of the request to each party.

33. The committee shall send copies of their decision or decisions to the complainant and to the registrar, as well as to the body and persons to whom they are required to send copies thereof by section 42(9) of the Measure, and the registrar shall file his copy in the registry.

Articles and answer thereto

34.—(1) Subject to the following provisions of this rule, the person nominated to promote a complaint under section 43 of the Measure shall, within 28 days after his nomination, lodge with the registrar 11
Form 31. copies of the articles charging the offence or offences specified by the
Form 32. committee of inquiry, together with a certificate of his nomination signed by the registrar of the Upper House of the Convocation of the relevant province, and shall within the said period or as soon as possible thereafter serve a copy of the said articles on the accused.

The registrar shall forthwith give 5 of the copies lodged with him to the 5 judges of the Court of Ecclesiastical Causes Reserved, and up to 5 copies shall be available for the court's advisers.

(2) If the promoter wishes to apply to the said committee or court under section 44 of the Measure for leave to include in the articles particulars of any offence not specified by the committee, being an offence founded on evidence disclosed in the course of the inquiry by the committee, he shall lodge with the registrar, within 14 days after his nomination, 6 or 11 copies (according to whether the application is
Form 33. to the committee or the court) of an application in writing stating the offence to be included and the evidence on which he relies, and whether the application is to the committee or to the court, and shall within the said period or as soon as possible thereafter serve a copy of the application on the accused.

(3) The registrar shall give not less than 7 days' notice in writing to the promoter and the accused of the time and place of the hearing of the application.

(4) If such an application is refused by the committee, a subsequent application may be made to the court, and paragraphs (2) and (3) of this rule shall apply thereto, except that the period for lodging the application shall be 7 days after the date of the refusal of the previous application.

(5) If any application or applications is or are made under this rule, the period within which the articles must be lodged with the registrar shall extend to 21 days after the date of the decision or, as the case may be, the second decision, and paragraph (1) of this rule shall apply accordingly.

(6) The service on the accused of a copy of the articles and of any application under this rule must be personal service, and rule 58(1) shall apply thereto.

35.—(1) The accused may, within 14 days after the service on him of the articles, lodge with the registrar 11 copies of an answer to the articles and serve one copy on the complainant.

The registrar shall give 5 of the copies lodged with him to the 5 judges of the said court, and up to 5 copies shall be available for the court's advisers.

(2) If an answer is lodged, it shall admit or deny the offence, or if the articles specify two or more offences, each of the offences, and may also admit or deny, or give the accused's account or explanation of, the matters alleged in the articles to constitute the offence or offences.

Fixing day of trial

36.—(1) As soon as possible after he has received a copy of the articles, the presiding judge of the said court shall fix a time and place for the trial, and the time shall be not less than 28 days after the lodging of the articles.

(2) The registrar shall, as soon as the Dean of the Arches and Auditor has selected under section 45(2) of the Measure the advisers who are to sit with the court, give notice in writing of their names to the promoter and the accused.

(3) Either the promoter or the accused may apply to the registrar for a postponement of the time fixed for the trial and, if the application is granted, the trial shall be at such later time as the presiding judge may fix(a).

(4) The presiding judge may at any time of his own motion postpone the time fixed for the trial.

Proceedings at trial

37.—(1) The Court of Ecclesiastical Causes Reserved may at the trial, if they think that the interests of justice so require:—

(*a*) allow the promoter to withdraw the articles or, if two or more offences are charged, to withdraw the charge or charges in respect of one or some of those offences;

(*b*) allow the promoter to amend the articles in any other way, but not so as to charge any new offence;

(*c*) allow the accused, if he has not lodged an answer to the articles, to put in an answer;

(*d*) allow the accused to amend his answer.

(2) If either party proposes to apply to the court to exercise any of its powers under this rule, he shall if practicable give notice in writing to the other party and the registrar, but the court may nonetheless exercise the said powers without notice. Forms 34 and 35.

(3) If the court exercises their powers under this rule, they may do so on such terms, including the adjournment of the trial, as they think just.

(4) If the accused admits any offence charged by the articles or any act or omission alleged by the articles, the court may treat the

(a) s. 45(1) (*d*) of the Measure requires not less than 14 clear days' notice of the sittings of the court to be given by the registrar to the promoter and the accused.

offence or the act or omission as proved and dispense with any evidence thereof, or may require such evidence as they think fit.

(5) If the accused has not lodged an answer and does not put in an answer under this rule, he shall be treated as having denied the offence or offences charged by the articles.

(6) If the answer of the accused fails to state or make clear whether he admits or denies any offence or allegation, he shall be treated as having denied it.

38.—(1) Without prejudice to section 45(1) of the Measure (which contains provisions as to the procedure at the trial), the following provisions of this rule shall apply with respect to the evidence at the trial.

(2) Subject as hereinafter provided, the evidence shall be given orally and on oath and in open court.

Forms 36 and 37.

(3) The registrar may, on an application by either party before the hearing, or the Court of Ecclesiastical Causes Reserved may, on the application of either party made at the hearing, allow the evidence of any witness to be taken before an examiner, if the registrar or court is satisfied that the witness cannot attend at the trial by reason of illness, and allow the depositions so taken to be given in evidence.

(4) If either party proposes to make such an application at the hearing, he shall if practicable give notice in writing to the other party and to the registrar, but the court may nonetheless exercise its powers aforesaid without notice.

(5) An order for the giving of evidence by deposition may be made on such terms as the registrar or court may direct.

(6) If an order is made for the taking of evidence before an examiner—

(*a*) the court shall appoint in writing a fit person to be the examiner;

(*b*) the examiner shall fix the time and place for the examination, and the registrar shall give 7 days' notice thereof to both parties, who shall be entitled to attend;

(*c*) the witness shall be subject to examination and cross-examination.

(7) The party on whose application an order is made under this rule shall lodge the original depositions and 10 copies thereof with the registrar and shall serve one copy thereof on the other party.

Procedure on Appeals to Arches and Chancery Courts (Sections 7 and 47 of Measure)

Lodging of Appeal

39.—(1) Where in proceedings for an offence under the Measure the accused wishes to appeal on a question of fact, or either party wishes to appeal on a question of law, from a judgment of the consistory court to the Arches Court of Canterbury or, as the case may be, the Chancery Court of York, the appeal must be lodged, in the manner hereinafter provided, within 28 days after the decision of the consistory court.

(2) The lodging of an appeal shall be effected by—

(*a*) lodging six copies of the notice of appeal with the registrar of the appellate court,

(*b*) lodging one copy thereof with the registrar (as defined in rule 2),

(*c*) serving one copy on the other party.

(3) The notice shall be in the appropriate form set out in the Appendix and shall state the grounds of the appeal and, if the judgment of the consistory court comprised findings in respect of two or more offences, and the appeal is from one or some of the findings only, shall specify the finding or findings appealed from. Forms 38 and 39.

(4) Except with the leave of the appellate court, the appellant shall not be entitled on the hearing of the appeal to rely on any grounds not stated in the notice of appeal, whether as originally lodged or, if amended under the next following rule, as so amended.

(5) The registrar of the appellate court shall file one copy of the notice of appeal in the registry of the court.

(6) As soon as he receives his copy of the notice of appeal, the registrar (as defined in rule 2) shall transmit the record of the proceedings, and any documents and exhibits lodged with him or in his custody relating to the proceedings, to the registrar of the appellate court, and shall also request the judge of the consistory court to send his note of the trial to the registrar of the appellate court; and the parties shall be entitled, on reasonable notice, to inspect the said record, documents, exhibits and judge's note and to take extracts therefrom or make copies thereof.

Amendment or withdrawal of appeal

40.—(1) The appellate court may at the hearing, or the Dean of the Arches and Auditor may at any time before the hearing, on an application by the appellant,—

(*a*) allow the appeal to be withdrawn,

(*b*) allow the notice of appeal to be amended.

(2) The terms on which an order is made allowing amendment of the notice may include the adjournment or postponement of the hearing.

(3) If the appellant proposes to apply to the appellate court at the hearing to exercise its powers under this rule, he shall if practicable give notice in writing to the respondent and the registrar of that court, but without prejudice to the exercise of those powers without notice. Form 40.

Fixing day of hearing

41.—(1) The appellate court shall fix a time for the hearing of the appeal, which shall be not less than 28 days after the lodging of the appeal.

(2) Either the promoter or the accused may apply to the registrar of the appellate court for a postponement of the hearing and, if the application is granted, the hearing shall be at such later time as the appellate court may fix.

(3) The appellate court may at any time of its own motion postpone the hearing of the appeal.

(4) The registrar of the appellate court shall give not less than 14 days' notice of the sittings of the court to both parties.

Proceedings before Appellate Court

42.—(1) On an appeal brought by the accused on a question of fact, the following provisions shall apply:—

(*a*) the note of the judge of the consistory court and all documents and exhibits transmitted under rule 39(6), so far as material to the appeal, shall be available for use at the hearing;

(*b*) if a shorthand note of the evidence at the trial has been taken, the appellate court may require or allow it to be used at the hearing, on such terms as it may direct;

(*c*) the appellate court may require or allow—

(i) any witnesses who gave evidence for the purposes of the trial to give evidence for the purposes of the appeal, either at the hearing or before an examiner;

(ii) any documents or exhibits produced at the trial (in addition to those transmitted as aforesaid) to be produced at the hearing;

(iii) in exceptional circumstances, new witnesses to give evidence at the hearing or before an examiner, or other new evidence to be produced.

Form 41. (2) If either party proposes to apply to the court to exercise its powers under sub-paragraph (*b*) or (*c*) of the foregoing paragraph, he shall if practicable give notice in writing to the other party and to the registrar of the appellate court, but without prejudice to the exercise of the said powers without notice.

(3) On an appeal brought by either party on a question of law, the provisions of paragraph (1) of this rule shall apply to such extent as the appellate court thinks necessary for the purpose of examining any matters of fact relevant to the determination of the question of law, and paragraph (2) shall apply accordingly.

Powers of determination of Appellate Court

43.—(1) On any appeal the appellate court shall determine the question or questions raised by the appeal, and may thereupon confirm, reverse or vary any finding of the consistory court against which the appeal is brought, or may remit the case with their determination to the consistory court to take such further proceedings therein as they may direct.

(2) The powers of the appellate court shall include power to vary the censure or impose a censure for any offence in respect of which they confirm, vary or make a finding of guilt, but without prejudice to their power to remit the decision as to the censure to the consistory court.

(3) The determination of any matter before the appellate court shall be according to the opinion of the majority of the members thereof.

(4) The registrar of the appellate court shall give notice in writing to the registrar (as defined in rule 2) of any determination or directions made or given by the appellate court, and if the case is remitted to the consistory court for further proceedings therein, the judge of the consistory court shall fix a time and place for such proceedings and rules 14(2) and (3) and 15 to 17 shall apply for the purposes of those further proceedings, with the necessary modifications, in like manner as they apply for the purposes of the original trial.

PROCEDURE ON REVIEW BY COMMISSION OF REVIEW (SECTIONS 11 AND 48 OF MEASURE)

Lodging of Petition

44.—(1) Where the accused wishes that

(*a*) a finding of any Commission of Convocation under Part V of the Measure, or

(*b*) a finding of the Court of Ecclesiastical Causes Reserved under Part VI of the Measure,

should be reviewed on a question of fact by a Commission of Review, or where either party wishes that any such finding should be reviewed on a question of law by a Commission of Review, the petition must be lodged, in the manner hereinafter provided, within 28 days after the finding to which the petition relates.

(2) The lodging of a petition shall be effected by—

(*a*) lodging six copies thereof with the Clerk to the Crown in Chancery,

(*b*) lodging one copy thereof with the registrar,

(*c*) serving one copy on the other party.

(3) The petition shall be in the appropriate form set out in the Appendix and shall state the grounds of the petition, and if the judgment of the Commission of Convocation or Court of Ecclesiastical Causes Reserved comprised findings in respect of two or more offences, and the petition only relates to one or some of those findings, shall specify the finding or findings concerned. Forms 42, 43, 44 and 45

(4) Except with the leave of the Commission of Review, the petitioner shall not be entitled on the hearing of the petition to rely on any grounds not stated in the petition, whether as originally lodged or, if amended under the next following rule, as so amended.

(5) As soon as a petition under this rule has been lodged, the Clerk to the Crown in Chancery shall appoint a person to be the registrar of the Commission of Review, and shall hand over the six copies of the petition to the registrar so appointed, who shall file one of them.

(6) As soon as he receives his copy of the petition, the registrar (as defined in rule 2) shall transmit the record of the proceedings, and any documents and exhibits lodged with him or in his custody relating to the proceedings, to the registrar of the Commission of Review, and shall also request the judge who presided at the trial to send his note of the trial to the latter registrar; and the parties shall be entitled, on reasonable notice, to inspect the said record, documents, exhibits and judge's note and to take extracts therefrom or make copies thereof.

(7) The registrar of the Commission of Review shall notify to both parties the names of the members of the Commission and, in a case involving a question of doctrine, the persons selected under section 48(3) of the Measure to sit with the Commissioners as advisers.

Amendment or withdrawal of petition

45.—(1) The Commission of Review may at the hearing, or the presiding judge may at any time before the hearing, on an application by the petitioner,—

(*a*) by order allow the petition to be withdrawn,

(*b*) by order allow the petition to be amended.

(2) The terms on which an order is made allowing amendment of a petition may include the adjournment or postponement of the hearing.

(3) If the petitioner proposes to apply to the Commission of Review at the hearing to exercise its powers under this rule, he shall if practicable give notice in writing to the respondent and the registrar Form 46.

of the Commission, but without prejudice to the exercise of those powers without notice.

Fixing day of hearing

46.—(1) The Commission of Review shall fix a time for the hearing of the petition, which shall be not less than 28 days after the lodging of the petition.

(2) Either the promoter or the accused may apply to the registrar of the Commission for a postponement of the hearing and, if the application is granted, the hearing shall be at such later time as the Commission may fix.

(3) The Commission may at any time of its own motion postpone the hearing of the petition.

(4) The registrar of the Commission shall give not less than 14 days' notice of the sittings of the court to both parties.

Proceedings before Commission of Review

47.—(1) On a review on a question of fact, the following provisions shall apply :—

(*a*) the note of the judge who presided at the trial and all documents and exhibits transmitted under rule 44(6), so far as material to the review, shall be available for use at the hearing ;

(*b*) if a shorthand note of the evidence at the trial has been taken, the Commission of Review may require or allow it to be used at the hearing, on such terms as it may direct ;

(*c*) the Commission of Review may require or allow—

(i) any witnesses who gave evidence for the purposes of the trial to give evidence for the purposes of the review, either at the hearing or before an examiner ;

(ii) any documents or exhibits produced at the trial (in addition to those transmitted as aforesaid) to be produced at the hearing ;

(iii) in exceptional circumstances, new witnesses to give evidence at the hearing or before an examiner, or other new evidence to be produced.

Form 47. (2) If either party proposes to apply to the Commission to exercise its powers under sub-paragraph (*b*) or (*c*) of the foregoing paragraph, he shall if practicable give notice in writing to the other party and to the registrar of the Commission, but without prejudice to the exercise of the said powers without notice.

(3) On a review of a question of law, the provisions of paragraph (1) of this rule shall apply to such extent as the Commission of Review thinks necessary for the purpose of examining any matters of fact relevant to the determination of a question of law, and paragraph (2) shall apply accordingly.

48.—(1) On any review the Commission of Review shall determine the question or questions raised by the petition, and may thereupon confirm, reverse or vary any finding of the Commission of Convocation or the Court of Ecclesiastical Causes Reserved, as the case may be, against which the petition is brought, or may remit the case with their determination to the latter commission or court to take such further proceedings therein as the Commission of Review may direct:

Provided that, if the review is of a finding of a Commission of Convocation, the Commission of Review shall not make a finding of guilt (whether by way of variation or reversal of the finding reviewed), but shall exercise instead their power of remitting the case to the Commission of Convocation with their determination and directions thereon.

(2) Where the review is of a finding of the Court of Ecclesiastical Causes Reserved, the powers of the Commission of Review shall include power to vary the censure or impose a censure for any offence in respect of which they confirm, vary or make a finding of guilt, but without prejudice to their power to remit the decision as to the censure to the said court.

(3) The Registrar of the Commission of Review shall give notice in writing to the registrar (as defined in rule 2) of any determination or directions made or given by the Commission of Review, and if the case is remitted to the Commission of Convocation or, as the case may be, the Court of Ecclesiastical Causes Reserved for further proceedings therein, the Dean of the Arches and Auditor or, as the case may be, the presiding judge of the said court shall fix a time and place for such proceedings, and rules 25(2) and (3), 26 and 27 or, as the case may be, rules 36(2) to (4), 37 and 38 shall apply for the purposes of those further proceedings, with the necessary modifications, in like manner as they apply for the purposes of the original trial.

Deposition following Censure or Deprivation (Sections 50 and 51 of Measure)

Deposition of priest or deacon

49.—(1) The notice which a bishop is required by the proviso to section 50 of the Measure to serve on a priest or deacon of his intention to depose him from Holy Orders shall be in the form set out in the Appendix. Form 48.

(2) After the said notice has been served, the bishop shall fix a time, not less than one month after the service of the notice, and a place for the sentence of deposition to be pronounced:

Provided that, if there is an appeal under the said proviso, and the deposition is accordingly only to be proceeded with in the event of the appeal being dismissed, the bishop shall (in that event) fix a time for the sentence of deposition to be pronounced not less than fourteen days after the dismissal of the appeal.

(3) The registrar shall give the priest or deacon concerned not less than fourteen days notice of the time and place fixed for the pronouncement of the sentence of deposition.

50.—(1) If the priest or deacon concerned wishes to appeal to the archbishop under the said proviso, three copies of the notice of appeal must be lodged within the period mentioned in the said proviso (one month from the date of the bishop's notice of intention aforesaid), with the registrar of the relevant province,

(2) The notice shall be in the form set out in the Appendix, and shall specify the grounds of the appeal and contain a prayer that the sentence of deposition be not delivered. Form 49.

(3) The registrar shall file one copy of the notice of appeal in the registry of the province, and shall give one copy to the archbishop to whom the appeal is addressed, and shall send the remaining copy to the registrar of the diocese, who shall inform the bishop thereof.

(4) On receipt of a copy of the notice of appeal, the registrar of the diocese shall forthwith transmit the record of the case (including a copy of the bishop's notice referred to in the last foregoing rule) to the registrar of the province, who shall place it before the archbishop to whom the appeal is addressed.

(5) The appeal shall be heard at such time and place as the archbishop may fix, and the registrar of the province shall give to the priest or deacon concerned not less than 14 days' notice of the time and place so fixed.

(6) The defendant may either appear in person at the hearing of the appeal or be represented by solicitor or counsel.

(7) If the archbishop does not declare his decision at the conclusion of the hearing of the appeal, he shall fix a time and place for that purpose, and the registrar of the province shall give the priest or deacon concerned not less than 3 days' notice thereof.

(8) The registrar of the province shall give notice in writing of the decision to the priest or deacon concerned and to the registrar of the diocese, who shall record the decision in the registry and inform the bishop of the diocese.

Deposition of Archbishop or Bishop

51. The notice which is required by the proviso to section 51 of the Measure to be served on a bishop or archbishop before a resolution is moved in the Upper House of Convocation of the relevant province to depose him from Holy Orders shall be in the form set out in the Appendix.

Form 50.

DEPRIVATION CONSEQUENT UPON CERTAIN PROCEEDINGS IN SECULAR COURTS (PART IX OF MEASURE)

52.—(1) Where under section 55 or section 56 of the Measure—

(*a*) a bishop has a duty to declare a priest or deacon to be deprived of a preferment and to be disqualified from holding preferment, in consequence of such a conviction, order or finding of a secular court as is mentioned in subsection (1) of the said section 55, or has power to make such a declaration in consequence of such an order as is mentioned in subsection (3) of the said section; or

(*b*) an archbishop has a duty to make such a declaration under subsection (2) of the said section in default of a bishop discharging his duty under the said subsection (1); or

(*c*) an archbishop has a duty under section 56 of the Measure to make such a declaration in respect of a bishop or archbishop in consequence of any such conviction, order or finding as is mentioned in the said subsection (1) or subsection (3);

the bishop or archbishop shall, before making the declaration, require the registrar of his diocese or province to give not less than 14 days' notice in writing to the priest, deacon, bishop or archbishop in respect of whom the declaration is to be made of the time and place at which the declaration will be made, and the person so notified shall be entitled to be present when the declaration is made.

(2) The bishop or archbishop shall be attended by the registrar of his diocese or province when making any such declaration, and the declaration shall be reduced to writing and a copy thereof shall be filed by the registrar in the registry.

(3) Where, in consequence of any such declaration, the provisions of the Measure relating to deposition from Holy Orders apply by virtue of section 57 of the Measure, the last 3 foregoing rules shall also apply.

(4) The certificate of a conviction, finding or order of a temporal court which the court is required to send to the bishop of the diocese by Section 79(3) of the Measure shall be signed by the registrar, clerk or other proper officer of the court.

COSTS (PART X OF MEASURE)

53.—(1) No party shall be entitled to recover any costs of or incidental to proceedings for an offence under the Measure except under an order made by a court, commission, committee or examiner under section 60(2) of the Measure.

(2) In the case of an appeal or a petition for review, the costs of the proceedings giving rise to the appeal or petition, as well as the costs of the appeal or petition, may be dealt with by the court or commission hearing the appeal or petition.

54.—(1) Where an order is made as aforesaid for the payment of taxed costs, they shall be taxed by the registrar, who shall have power to require the attendance of witnesses and the production of documents, so far as necessary for the discharge of his functions.

(2) Proceedings for the taxation of costs shall be commenced by—

(*a*) lodging with the registrar an application in writing, together with the bill of costs and all necessary papers and vouchers; Form 51.

(*b*) serving on the other party a copy of the application and of the bill of costs.

(3) The registrar shall thereupon fix a day for the taxation, and shall give not less than 7 days' notice thereof to both parties.

(4) If the party other than the applicant does not attend at the time and place so fixed, the registrar, if satisfied that he had due notice thereof, may proceed with the taxation.

(5) The registrar, in deciding the amount of costs to be allowed, shall have regard to the current scale of costs applicable to a taxation on a party and party basis in the High Court.

55.—(1) Any party to proceedings for an offence under the Measure, or his solicitor, may apply to the registrar to tax the costs of or incidental to the proceedings as between solicitor and client, and paragraphs (2), (3) and (4) of the last foregoing rule shall apply, with necessary modifications, to such taxation.

(2) In taxing such costs the registrar shall have regard to the practice applicable in the High Court to the taxation of costs as between solicitor and client.

56.—(1) Any party to taxation proceedings who is dissatisfied with any decision of the registrar, may apply for it to be reviewed by the judge.

(2) The application for a review must be made in writing within 7 days after the decision, and shall set out the grounds of the objection and shall be lodged with the registrar, and a copy thereof served on the other party. Form 52.

(3) The judge shall fix the time and place of the review, and shall require the registrar to give both parties not less than 3 days' notice thereof.

(4) Unless the judge otherwise directs, no further evidence shall be received on the hearing of the application, and no ground of objection shall be raised which was not set out in the application but, save as aforesaid, the judge may exercise all such powers and discretion as are vested in the registrar.

(5) In this rule "judge" means—

(*a*) in a case where the taxation was by the registrar of a diocese, the judge of the consistory court of that diocese;

(*b*) in any other case, the Dean of the Arches and Auditor or a deputy nominated by him for the purpose.

General Provisions

Proceedings in absence of accused

57. An examiner, committee, court or commission may proceed with an inquiry, trial, appeal or review, as the case may be, in respect of an offence under the Measure, notwithstanding that the accused does not appear and is not represented at the hearing, if the examiner, committee, court or commission is satisfied by affidavit or oral evidence that the accused was duly served in accordance with these rules (including the provision for substituted service) with the complaint and all other documents required to be served on him.

Service and lodging of documents

58.—(1) Where any of these rules requires the service of any document on the accused to be personal service, service shall be effected by leaving a copy of the document with the accused personally, and
Form 53. an affidavit of such service shall be lodged with the registrar within three days after it has been effected:

Provided that—

(*a*) if service of the document is acknowledged in writing by the
Form 54. accused or his solicitor, and a copy of the acknowledgment is lodged with the registrar, the document shall be deemed to have been personally served on the accused;

(*b*) if, on an application made in writing to the registrar supported by affidavit, the registrar is satisfied that it is impracticable to
Form 55. serve the document personally, the registrar may grant leave to effect substituted service, that is to say, to take such steps as the registrar may direct to bring the document to the notice of the person to be served, and the substituted service shall be deemed to be personal service.

(2) Service of any document, not being a document which by virtue of any of these rules is required to be served personally, may be effected:—

(*a*) by leaving the document at the proper address of the person to be served, or

(*b*) by sending it by the recorded delivery service to that address, or

(*c*) in such other manner as the registrar may direct.

(3) An affidavit of service, whether it be personal service or service
Form 56. under the last foregoing paragraph, must state by whom the document

was served, the date on which it was served, and where and how it was served.

(4) For the purposes of this rule, and of section 26 of the Interpretation Act 1889(a) (as applied by the Interpretation Measure 1925) in its application to this rule, the proper address of any person on whom the document is to be served under this rule shall be the address for service of that person, but if at the time when service is effected that person has no address for service, his proper address for the purposes aforesaid shall be—

(*a*) the business address of the solicitor (if any) who is acting for him in the proceedings, or

(*b*) his usual or last known address.

(5) Where a complaint is laid by a number of persons, the service of one copy of a document at the address for service specified in the complaint shall be deemed to be service on all those persons.

59. Any document required by these rules to be lodged with a registrar may be lodged by delivering the document at the office of the registrar, or by sending it by post properly addressed to the registrar at his office.

Interlocutory applications

60.—(1) This rule applies to all applications to the registrar except applications for taxation of costs (for which provision is made by rule 54) and applications for substituted service, and applies also to applications made to the Dean of the Arches and Auditor under rule 40 or to the presiding judge of a Commission of Review under rule 45.

(2) All applications shall be in writing and shall be lodged with the registrar, and a copy thereof shall be served on the other party. Form 57.

(3) The registrar may grant any application made to him, without a hearing, if there is lodged with the application a consent in writing signed by the other party or his solicitor, or if the registrar is otherwise satisfied that the other party does not oppose the application.

(4) In any other case, including an application made to the Dean of Arches and Auditor or the presiding judge as aforesaid, the registrar shall fix a time and place for the hearing thereof, and shall give not less than 3 days' notice in writing of the time and place to both parties.

(5) Any application granted under these rules may be granted on such terms as the person or body granting the application may think just.

(6) Either party may appeal from a decision of the registrar—

(*a*) on an application made before the conclusion of the inquiry into the complaint, to the examiner or committee of inquiry, as the case may be;

(*b*) in any other case to the judge;

and the notice of appeal must be lodged with the registrar within 7 days after the decision, and the registrar shall fix the time and place of the hearing of the appeal and give not less than 3 days' notice thereof in writing to both parties. Form 58.

(a) 52 & 53 Vict. c. 63.

(7) In this rule—

"the registrar" means, in relation to proceedings on an appeal to the Arches Court of Canterbury or the Chancery Court of York, or on a petition to a Commission of Review, the registrar of the Court or Commission;

"the judge" means—

(*a*) in relation to proceedings before the consistory court, the judge of that court;

(*b*) in relation to proceedings before a commission of convocation, the Dean of the Arches and Auditor;

(*c*) in relation to proceedings before the Court of Ecclesiastical Causes Reserved, such one of the two judges other than bishops as may be agreed between them;

(*d*) in relation to proceedings on an appeal to the Arches Court of Canterbury or the Chancery Court of York, the Dean of the Arches and Auditor; and

(*e*) in relation to proceedings on a petition to a Commission of Review, the presiding judge of that Commission.

Representation of parties

61.—(1) At the hearing of any interlocutory application under these rules made before the conclusion of the inquiry into the complaint, either party may appear in person or, if he so desires, be assisted or represented by a friend or adviser(a).

(2) In any subsequent proceedings either party may appear in person or be represented by counsel or solicitor.

Production and inspection of documents and attendance of witnesses

62.—(1) Either party to proceedings under the Measure in the consistory court, commission of convocation or Court of Ecclesiastical Causes Reserved, may apply to the registrar for an order—

Form 59.

(*a*) requiring the other party to produce for the applicant's inspection any document specified in the application, and to allow the applicant to take copies thereof;

Form 60 and 61.

(*b*) requiring the other party or any other person to produce at the trial any document so specified;

Form 62.

(*c*) requiring the attendance of any person for the purpose of giving evidence at the trial.

Forms—see note at end of Appendix.

(2) At the trial of any such proceedings, or at the hearing of any appeal or petition in respect of such proceedings, the court or commission shall have power, whether on the application of either party or on its own motion, to make any such order as is mentioned in the foregoing paragraph.

(3) Where in any such proceedings, or in any proceedings on an appeal to the Arches Court of Canterbury or the Chancery Court of York or on a petition to a Commission of the Review, the court or commission orders the taking of the evidence of any person before an examiner, either party may apply to the registrar (including the registrar of the appellate court or the Commission of Review) for an order requiring the attendance of that person before the examiner.

(4) An order made under paragraph (1)(*a*) of this rule shall specify the period within which it is to be complied with, and it shall be the

(a) As regards the inquiry itself, similar provision is made by sections 24(2), 33(5) and 42(4) of the Measure.

duty of the party to whom it is addressed to give notice to the applicant of the time and place at which the document or documents will be produced for inspection and copying.

(5) If an order made under this rule is addressed to a party, and was not made at a hearing attended by that party, the applicant for the order shall serve a copy of it on that party.

(6) The applicant shall serve a copy of any order made under this rule and addressed to a person other than a party, on that person, and shall give him not less than 3 days' notice in writing of the time and place at which his attendance is required, or at which he is required to produce any document.

Time

63. Where any act is required by these rules to be done by the complainant or the promoter or the accused within a specified period, he may apply to the registrar for an enlargement or abridgement of that period and an application for enlargement may be made notwithstanding that the period has expired.

64.—(1) Where any act is required by these rules to be done within a specified period after a specified date or event, the period shall begin immediately after that date or, as the case may be, immediately after the day on which that event occurred.

(2) Where these rules require not less than a specified number of days' notice to be given of any proceeding, at least that number of days must intervene between the day on which the notice is served and the day fixed for that proceeding.

(3) Where these rules require the time fixed for any proceeding to be not less than a specified number of days after a specified event, at least that number of days must intervene between the day on which the event occurred and the day fixed for the proceeding.

(4) In calculating, for the purposes of these rules, any period or number of days not exceeding 7 days, any Saturday, Sunday or Bank Holiday shall be disregarded.

In this paragraph "Bank Holiday" means a day which is, or is to be observed as, a Bank Holiday, or a holiday, under the Bank Holidays Act 1871(a) or the Holidays Extension Act 1875(b), in England and Wales, and includes Christmas Day and Good Friday.

Effect of non-compliance with rules

65. Non-compliance with any of these rules shall not render any proceedings void unless the court or commission before whom the proceedings are pending when the irregularity is discovered so directs, but the proceedings may be set aside, either wholly or in part, as irregular, or may be amended or otherwise dealt with in such manner and upon such terms as the court thinks fit.

For the purposes of this rule all proceedings up to the trial shall be deemed to be pending in the trial court or commission.

Use of forms in Appendix

66. Subject to any rule expressly requiring a document to be in the form set out in the Appendix, the forms in the Appendix shall be used where applicable and where they are not applicable forms of the like character, with such variations as circumstances may require, shall be used.

(a) 34 & 35 Vict. c. 17. (b) 38 & 39 Vict. c. 13.

Dated the second day of October 1964.

J. R. Cumming Bruce.
G. W. O. Addleshaw.
D. M. M. Carey.
Gerald Cestr.
R. H. Mais.
L. H. Orford.
J. S. Widdows.
Henry Willink.

Approved by the Church Assembly the third day of November 1964.

John Guillum Scott,
Secretary.

APPENDIX

FORMS

No. 1

Complaint against Priest or Deacon

Ecclesiastical Jurisdiction Measure 1963

Diocese of

Complaint against Priest or Deacon [No. (a)] Rule 3 (2).

Name of complainant or complainants	Address	Authority or qualification (b) of complainant or complainants

Name of accused	Address	Preferment (if any) held by accused

Statement of Offence

e.g. conduct unbecoming the office and work of a clerk in Holy Orders

Particulars of offence

(Here set out the alleged acts or omissions constituting the offence, using numbered paragraphs to distinguish separate allegations, and giving dates and places where possible. If more than one offence is charged, state each offence separately under the heading "Statement of First Offence", "Statement of Second Offence", etc., followed by the particulars of that offence.)

The address for service of the complainant or complainants is

(If a solicitor is acting for the complainant or complainants, state the business address of the solicitor. Otherwise state the address of the complainant or, if there are several complainants, the address of one of them.)

Dated this day of 19

Signature of complainant or signatures of all complainants.

Notes

(a) Reference number to be filled in by registrar.

(b) i.e. person authorised by bishop of ,

person on electoral roll of ,

incumbent of

No. 2

Rule 3 (2).

Complaint against Archbishop or Bishop

Ecclesiastical Jurisdiction Measure 1963

Province of

Complaint against Archbishop or Bishop [No. (a)]

Name of complainant or complainants	Address	Authority or qualification (b) of complainant or complainants

Name of accused	Address	Archbishopric or bishopric and parochial benefice (if any) held by accused

Statement of Offence
e.g. serious, persistent or continuous neglect of duty

Particulars of offence

(Here set out the alleged acts or omissions constituting the offence, using numbered paragraphs to distinguish separate allegations, and giving dates and places where possible. If more than one offence is charged, state each offence separately under the heading "Statement of First Offence", "Statement of Second Offence", etc., followed by the particulars of that offence.)

The address for service of the complainant or complainants is

(If a solicitor is acting for the complainant or complainants, state the business address of the solicitor. Otherwise state the address of the complainant or, if there are several complainants, the address of one of them.)

Dated this day of 19

Signature of complainant or signatures of all complainants.

Notes

(a) Reference number to be filled in by registrar.

(b) i.e. bishop of ,
incumbent of ,
lay member of the diocesan conference of ,
person authorised by the archbishop of ,
person authorised by the bishop of ,
person on electoral roll of .

No. 3

Affidavit verifying Complaint Rule 3 (4).

Ecclesiastical Jurisdiction Measure 1963

Province [Diocese] of

I, of ,

being the person [one of the persons] laying a complaint against

of , being the (here state

the archbishopric, bishopric or preferment, if any, held by the accused), make oath and say as follows:—

1. The statements made in paragraphs of the particulars of the offence(a) charged by the complaint are true.

2. The statements made in paragraphs of the particulars of the said offence(a) are true to the best of my knowledge, information and belief.

Sworn etc.

Note

(*a*) If more than one offence is charged, the relevant paragraphs of the particulars of each offence must be specified.

No. 4

Certificate of Archbishop's or Bishop's authorisation of person to lay complaint Rule 3 (5).

Ecclesiastical Jurisdiction Measure 1963

Province [Diocese] of

I hereby certify that , of

is a person approved by me to lay a complaint under Part III of the Ecclesiastical Jurisdiction Measure 1963 against

of , being the

(here state the archbishopric, bishopric or preferment (if any), of the accused).

Dated this day of 19

Archbishop's or bishop's signature.

No. 5

Certificate of qualification of persons on electoral roll to lay complaint Rule 3 (6).

Ecclesiastical Jurisdiction Measure 1963

Province [Diocese] of

I, of

being a church warden of

[the secretary of the parochial or guild church council of]

hereby certify that

of

is on the electoral roll of

Dated this day of 19

Signature

No. 6

Rule 3 (7). *Certificate of qualification of a lay member of a diocesan conference to lay complaint*

Ecclesiastical Jurisdiction Measure 1963

Province of

I, of ,
being the secretary of the diocesan conference of the diocese of , hereby certify that
of is a lay member of that diocesan conference.

Dated this day of 19

Signature

No. 7

Rule 4 (3). *Statement of Accused's Address for Service*

Ecclesiastical Jurisdiction Measure 1963

Province [Diocese] of

Complaint No.

Complainant (State name or names)

Accused (State name and preferment, if any)

The address for service of the accused is:—

(If a solicitor is acting for the accused, state the solicitor's business address. Otherwise state the address of the accused.)

Dated this day of 19

Signature of accused

No. 8

Rule 9 (1). *Application for attendance at inquiry of person making affidavit*

Ecclesiastical Jurisdiction Measure 1963

Diocese of

Complaint No.

Complainant (State name or names)

Accused (State name and preferment if any)

Application is hereby made by the complainant [accused] under section 24(3) of the Measure to the examiner to request the attendance at the inquiry of
who made an affidavit dated

Dated this day of 19

Signature of the applicant or his solicitor (the signature of one of several complainants is sufficient).

No. 9.

Request by Examiner to person making affidavit to attend at inquiry Rule 9 (1).

(Heading as in Form No. 8)

To of , who made an affidavit dated .

I, , the examiner to whom the above complaint is referred for inquiry, hereby request you under section 24(3) of the Measure to attend the inquiry at (here state time and place at which attendance is requested) to answer questions on oath.

Take note that, if you fail to attend in pursuance of this request, your affidavit will be disregarded.

Dated this day of 19

Signature of Examiner.

No. 10

Application to Bishop to exercise jurisdiction under section 31 Rule 11 (1).

(Heading as in Form No. 8)

The accused hereby applies to the bishop to exercise his power under section 31 of the Measure to pronounce a censure upon him in respect of the above complaint.

Admissions

(The accused should here state the extent to which he admits the offence or offences charged by the complaint and the allegations contained in the particulars thereof, and may give his account or explanation of anything admitted and state any mitigating circumstances.)

The accused hereby consents to the pronouncement of a censure upon him as aforesaid.

Dated this day of 19

Signature of accused.

No. 11

Articles in proceedings against priest or deacon for offence not involving doctrine etc. Rule 12 (1).

Ecclesiastical Jurisdiction Measure 1963

Consistory Court of

Complaint No.

Promoter (State name)

Accused (State name and preferment if any)

Articles

Statement of Offence

e.g. conduct unbecoming the office and work of a clerk in Holy Orders.

Particulars of Offence

(Here set out in numbered Articles the alleged acts or omissions constituting the offence, giving dates and places where possible. If more than one offence is charged, state each offence separately under

the heading "Statement of First Offence", "Statement of Second Offence", etc., followed by the Articles containing the particulars of that offence.)

Dated this day of 19

Signature of promoter or his solicitor.

No. 12

Rule 12 (1). *Certificate of nomination by Bishop of Promoter of complaint*

(Heading as in Form No. 8)

I hereby certify that I have nominated under section 25 of the Measure of , to promote a complaint against the accused in the consistory court.

Dated this day of 19

Signature of Bishop.

No. 13

Rule 12 (2). *Application to include other offences in articles*

(Heading as in Form No. 11)

Application is hereby made to the examiner [the consistory court] by the promoter of the above complaint for leave to include in the articles under section 26 of the Measure particulars of the following offence[s]:—

(Here set out the offence[s])

The offence[s] is [are] in substitution for [in addition to] the offence[s] specified by the examiner(a).

The offence[s] set out above is [are] founded on the following evidence disclosed in the course of the inquiry:—

(Summarize relevant evidence)

Dated day of 19

Signature of promoter or his solicitor.

Note

(a) It may be necessary, when more than one offence is specified by the examiner and/or in the application, to distinguish between them in this paragraph of the form; e.g. one new offence may be substituted for one of those specified by the examiner, another offence so specified may be left untouched, and another new offence may be added.

No. 14

Rule 15 (2) and (4). *Notice of time and place for selecting assessors*

(Heading as in Form No. 11)

To , promoter [accused].

Take notice that the time and place fixed for selecting assessors under Part II of the Second Schedule to the Measure to sit with the consistory

court at the trial of the above proceedings is as follows :—

(State time of day and date and place.)

You have a right to be present yourself or by your representative, and to object (in accordance with rule 15(4)) to any assessor selected.

Dated this day of 19

Signature of registrar.

No. 15

Objection to Assessor Rule 15 (4).

(Heading as in Form No. 11)

Objection is hereby made by the promoter [accused] to one of the assessors selected under Part II of the Second Schedule to the Measure to sit with the consistory court at the trial of the above proceedings, for the following reasons :—

(Here state reasons for objection)

Dated this day of 19

Signature of promoter [accused] or his solicitor.

No. 16

Notice of application by promoter to withdraw or amend articles Rule 16 (2).

(Heading as in Form No. 11)

The promoter hereby gives notice that he proposes to apply at the hearing to be allowed to withdraw the articles [to withdraw the following charges or charge made by the articles] [to amend the articles in the following respects].

(In the case of the two last alternatives, the charges to be withdrawn or the amendments to be made should be specified.)

Dated this day of 19

Signature of promoter or his solicitor.

No. 17

Notice of application by accused to lodge or amend answer Rule 16 (2).

(Heading as in Form No. 11)

The accused hereby gives notice that he proposes to apply at the hearing to be allowed to lodge an answer in the terms shown in the attached draft [to amend his answer in the following respects].

(In the case of the first alternative, the draft answer should be attached to the notice, and in the case of the second alternative, the proposed amendments should be specified.)

Dated this day of 19

Signature of accused or his solicitor.

No. 18

Rule 17 (3). *Application made to registrar before hearing for evidence to be taken before an examiner*

(Heading as in Form No. 11)

Application is hereby made to the registrar by the promoter [accused] for the evidence of to be taken before an examiner.

The reasons why the said witness [witnesses] cannot attend or should not be required to attend at the trial are the following:—

(Here state the reasons and circumstances justifying the taking of the evidence of the witness [witnesses] before an examiner)

Dated this day of 19

Signature of applicant or his solicitor.

No. 19

Rule 17 (3) and (4). *Notice of application to be made at hearing for evidence to be taken before an examiner*

(Heading as in Form No. 11)

Notice is hereby given by the promoter [accused] that he will apply at the hearing for the evidence of to be taken before an examiner.

(Continue as in Form No. 19)

No. 20

Rule 21 (1). *Application for attendance at inquiry of person making affidavit*

Ecclesiastical Jurisdiction Measure 1963

Province of

Complaint No.

Complainant (state name or names)

Accused (state name and bishopric or archbishopric)

Application is hereby made by the complainant [accused] under section 33(6) of the Measure to the episcopal committee of inquiry to request the attendance at the inquiry of

who made an affidavit dated

Dated this day of 19

Signature of the applicant or his solicitor (the signature of one of several complainants is sufficient).

No. 21

Request by episcopal committee to person making affidavit to attend inquiry Rule 21 (1).

(Heading as in Form No. 20)

To , who made the affidavit dated

We, the episcopal committee to whom the above complaint is referred for inquiry, hereby request you under section 33(6) of the Measure to attend the inquiry at (here state time and place at which attendance is requested) to answer questions on oath.

Take note that, if you fail to attend in pursuance of this request, your affidavit will be disregarded.

Dated this day of 19

Signature of one of the members of the committee signing on behalf of the committee

No. 22

Articles in proceedings against archbishop or bishop for offence not involving doctrine etc. Rule 23 (1).

Ecclesiastical Jurisdiction Measure 1963

Commission of Convocation

Complaint No.

Promoter (state name)

Accused (state name and bishopric or archbishopric)

(The main part of the form is the same as form No. 11)

No. 23

Certificate of nomination by episcopal committee of promoter of the complaint Rule 23 (1).

(Heading as in Form No. 20)

We hereby certify that we have nominated under section 33(7) of the Measure of

to promote the complaint against the accused before the Commission appointed under section 35 of the Measure.

Dated this day of 19

Signature of one of the members of the committee signing on behalf of the committee.

No. 24

Application to include other offences in Articles Rule 23 (2).

(Heading as in Form No. 22)

Application is hereby made to the episcopal committee of inquiry [the Commission of Convocation] by the promoter of the above complaint for leave to include in the Articles under section 34 of the Measure particulars of the following offence[s]:—

(Here set out the offence[s])

The offence[s] is [are] in substitution for [in addition to] the offence[s] specified by the committee(a).

The offence[s] set out above is [are] founded on the following evidence disclosed in the course of the inquiry:—

(Summarise relevant evidence)

Dated this day of 19 .

Signature of promoter or his solicitor.

Note

(a) It may be necessary when more than one offence is specified by the committee and/or in the application, to differentiate between them; e.g. a new offence may be substituted for one of those specified by the committee, another offence so specified may be left untouched, and another new offence may be added.

No. 25

Rule 26 (2). *Notice of application by promoter to withdraw or amend articles*

(Heading as in Form No. 22. Otherwise follow Form No. 16.)

No. 26

Rule 26 (2). *Notice of application by accused to lodge or amend answer*

(Heading as in Form No. 22. Otherwise follow Form No. 17.)

No. 27

Rule 27 (3). *Application made to the registrar before hearing for evidence to be taken before an examiner*

(Heading as in Form No. 22. Otherwise follow Form No. 18.)

No. 28

Rule 27 (3) and (4). *Notice of application to be made at hearing for evidence to be taken before an examiner*

(Heading as in Form No. 22. Otherwise follow Form No. 19.)

No. 29

Rule 32 (1). *Application for attendance at inquiry of person making affidavit*

Ecclesiastical Jurisdiction Measure 1963

Diocese [province] of

Complaint No.

Complainant (state name or names)

Accused (state name and preferment, bishopric or archbishopric, if any)

Application is hereby made by the complainant [accused] under section 42(5) of the Measure to the committee of convocation to request the attendance at the inquiry of who made an affidavit dated

Dated this day of 19

Signature of the applicant or his solicitor (the signature of one of several complainants is sufficient).

No. 30

Request by committee of Convocation to person making affidavit to attend at inquiry Rule 32 (1).

(Heading as in Form No. 29.)

To of

who made an affidavit dated

We, the committee of convocation to whom the above complaint is referred for inquiry, hereby request you under section 42(5) of the Measure to attend the inquiry at (here state time and place at which attendance is requested) to answer questions on oath.

Take note that, if you fail to attend in pursuance of this request your affidavit will be disregarded.

Dated this day of 19

Signature of one of the members of the committee signing on behalf of the committee.

No. 31

Articles in proceedings for offence involving doctrine etc. Rule 34 (1).

Ecclesiastical Jurisdiction Measure 1963

Court of Ecclesiastical Clauses Reserved

Complaint No.

Promoter (state name)

Accused (state name and preferment, bishopric or archbishopric, if any).

(The main part of the form is similar to form No. 11)

No. 32

Certificate of nomination by Upper House of Convocation of promoter of the complaint Rule 34 (1).

(Heading as in Form No. 29.)

I hereby certify that the Upper House of the Convocation of (insert relevant province) has nominated under section 43 of the Measure of , to promote a complaint against the accused in the Court of Ecclesiastical Causes Reserved.

Dated this day of 19

Signature of the secretary of the said Upper House.

No. 33

Application to include other offences in Articles Rule 34 (2).

(Heading as in Form No. 31.)

Application is hereby made to the committee of Convocation [the Court of Ecclesiastical Causes Reserved] by the promoter of the above complaint for leave to include in the Articles under section 44 of the Measure particulars of the following offence[s]:—

(Here set out the offence[s])

The offence[s] is [are] in substitution for [in addition to] the offence[s] specified by the committee of Convocation(a).

The offence[s] set out above is [are] founded on the following evidence disclosed in the course of the inquiry:—

(Here summarise relevant evidence)

Dated this day of 19

Signature of promoter or his solicitor.

Note

(a) It may be necessary when more than one offence is specified by the committee of Convocation and/or in the application, to differentiate between them; e.g. a new offence may be substituted for one of those specified by the committee, another offence so specified may be left untouched, and another new offence may be added.

No. 34

Rule 37 (2). *Notice of application by promoter to withdraw or amend articles*

(Heading as in Form No. 31. Otherwise follow Form No. 16.)

No. 35

Rule 37 (2). *Notice of application by accused to lodge or amend answer*

(Heading as in Form No. 31. Otherwise follow Form No. 17.)

No. 36

Rule 38 (3). *Application made to registrar before hearing for evidence to be taken before an examiner*

(Heading as in Form No. 31. Otherwise follow Form No. 18.)

No. 37

Rule 38 (3) and (4). *Notice of application to be made at hearing for evidence to be taken before an examiner*

(Heading as in Form No. 31. Otherwise follow Form No. 19.)

No. 38

Rule 39 (3). *Notice of Appeal by accused from Consistory Court to Arches or Chancery Court*

(Heading as in Form No. 11)

The accused hereby gives notice that he is appealing from the judgment of the Consistory Court of

[so far as it relates to the offence[s] of]

to the Arches Court of Canterbury [Chancery Court of York] on the following ground[s] involving a question [questions] of fact [law] [fact and law]:—

(Here state the ground[s] of appeal and the question[s] involved.)

Dated this day of , 19

Signature of the accused or his solicitor.

No. 39

Notice of Appeal by the promoter from Consistory Court to Arches or Chancery Court

Rule 39 (3).

(Heading as in Form No. 11)

The promoter hereby gives notice that he is appealing from the judgment of the Consistory Court of

[so far as it relates to the offence[s] of]

to the Arches Court of Canterbury (Chancery Court of York) on the following ground[s] involving a question [questions] of law:—

(Here state the ground[s] of appeal and the question[s] of law involved.)

Dated this day of , 19

Signature of the promoter or his solicitor.

No. 40

Notice of application to withdraw appeal or amend notice of appeal

Rule 40 (3).

(Heading as in Form No. 11)

The appellant, being the promoter [accused], hereby gives notice that he proposes to apply at the hearing to the Arches Court of Canterbury [Chancery Court of York] for the appeal to be withdrawn [the notice of appeal to be amended in the following respects(a)]

).

Dated this day of , 19

Signature of the appellant or his solicitor.

Note

(a) If the application is for amendment, the notice should show the precise form that the notice of appeal will take, if the amendments are allowed.

No. 41

Notice of application to appellate Court to use powers to hear witnesses etc.

Rule 42 (2).

(Heading as in Form No. 11)

Notice is hereby given by the promoter [accused] that he will apply at the hearing to the Arches Court of Canterbury [Chancery Court of York] to exercise the following powers:—

(Strike out any of the following paragraphs that are not needed.)

(1) To require or allow the shorthand note taken of the evidence at the trial to be used at the hearing of the appeal;

(2) To require or allow the following witnesses to give evidence at the hearing [before an examiner];

(State names and addresses of witnesses, and whether they gave evidence at the trial or are new witnesses, and the matters on which they will give evidence; also state the reasons why it is desired to call the witnesses and, in the case of new witnesses, the reasons why they were not called at the trial and the exceptional circumstances justifying their being called; and, if the evidence of the witnesses or any of them is to be

taken before an examiner, furnish a medical certificate [medical certificates] stating the illness of the witness [each witness] and that he cannot attend the hearing.)

(3) To require or allow the following documents [exhibits] to be produced at hearing;

(State the nature and materiality of the documents [exhibits] and, if they were not produced at the trial, the reasons why and the exceptional circumstances justifying their production.)

No. 42

Rule 44 (3). *Petition by accused from Commission of Convocation to Commission of Review*

(Heading as in Form No. 22)

The accused hereby petitions for a review by a Commission of Review of the finding(s) of the Commisison of Convocation [that(a)], on the following ground(s) involving a question (questions) of fact [law] [fact and law]:—

(Here state the ground(s) of the petition and the question(s) involved.)

Dated this day of , 19 .

Signature of the accused or his solicitor.

Note

(a) If there were more than one finding of the Commission of Convocation, and the petition is from one or some of the findings only, state the finding or findings concerned.

No. 43

Rule 44 (3). *Petition by accused from Court of Ecclesiastical Causes Reserved to Commission of Review*

(Heading as in Form No. 31)

The accused hereby petitions for a review by a Commission of Review of the finding(s) of the Court of Ecclesiastical Causes Reserved [that(a)], on the following ground(s) involving a question of fact [law] [fact and law]:—

(Here state the ground(s) of the petition and the question(s) involved.)

Dated this day of 19 .

Signature of accused or his solicitor.

Note

(a) If there were more than one finding of the Court of Ecclesiastical Causes Reserved comprised, and the petition is from one or some of the findings only, state the finding or findings concerned.

No. 44

Rule 44 (3). *Petition by promoter from Commission of Convocation to Commission of Review*

(Heading as in Form No. 22)

The promoter hereby petitions for a review by a Commission of Review of the finding(s) of the Commission of Convocation [that(a)

], on the following ground(s) involving a question (questions) of law:—

(Here state the ground(s) of the petition and the question(s) of law involved)

Dated this day of 19 .

Signature of the promoter or his solicitor.

Note

(a) If there were more than one finding of the Commission of Convocation, and the petition is from one or some of the findings only, state the finding or findings concerned.

No. 45

Petition by promoter from Court of Ecclesiastical Causes Reserved to Commission of Review Rule 44 (3).

(Heading as in Form No. 31)

The promoter hereby petitions for a review by a Commission of Review of the finding(s) of the Court of Ecclesiastical Causes Reserved that(a)], on the following ground(s) involving a question (questions) of law:—

(Here state the ground(s) of the petition and the question(s) of law involved)

Dated this day of 19 .

Signature of the promoter or his solicitor.

Note

(a) If there were more than one finding of the Court of Ecclesiastical Causes Reserved, and the petition is from one or some of the findings only, state the finding or findings concerned.

No. 46

Notice of application to withdraw or amend petition Rule 45 (3).

(Heading as in Form No. 22 or Form No. 31 according to whether the petition is from a Commission of Convocation or the Court of Ecclesiastical Causes Reserved.)

The petitioner, being promoter [accused], hereby gives notice that he proposes to apply at the hearing to the Commission of Review for the petition to be withdrawn [for the petition to be amended in the following respects(a)]).....

Dated this day of 19

Signature of the promoter (accused) or his solicitor.

Note

(a) If the application is for amendment, the notice should show the precise form that the petition will take, if the amendments are allowed.

No. 47

Notice of application to Commission of Review to use powers to hear witnesses etc. Rule 47 (2).

(Heading as in Form No. 22 or Form No. 31 according to whether the petition is from a Commission of Convocation or the Court of Ecclesiastical Causes Reserved.)

Notice is hereby given by the promoter (accused) that he will apply at the hearing to the Commission of Review to exercise the following powers:—

(Continue as in Form No. 41)

No. 48

Rule 49 (1). *Notice of Intention to depose priest or deacon*

Ecclesiastical Jurisdiction Measure 1963

Diocese of

To (State name of censured priest or deacon)

Whereas a censure of deprivation has been pronounced on you by (here state the court or commission by whom the censure was pronounced or, if it was pronounced under section 31 of the Measure, state " by the bishop under section 31 of the Measure ").

Take notice that I, (state name and title of bishop giving the notice) intend to depose you from Holy Orders under section 50 of the Measure, for the following reasons:—

(Here state the reasons for the deposition)

You have a right of appeal to the Archbishop of against the deposition, and the appeal must be brought within one month after the date of the notice, and notice of appeal must be given in accordance with the rules within that period.

Dated this day of , 19

Signature and title of the Bishop.

No. 49

Rule 50 (2). *Notice of Appeal to Archbishop against Deposition*

Ecclesiastical Jurisdiction Measure 1963

To the Registrar of the Province of

I, (here state name of appellant), having received a notice from the bishop of under the proviso to section 50 of the Measure that he intends to depose me from Holy Orders, hereby give notice that I appeal to the Archbishop against such deposition on the following grounds:—

(Here set out the grounds of appeal)

Accordingly, on the above grounds, I pray that the sentence of deposition be not pronounced.

Dated this day of , 19

Signature of Appellant.

No. 50

Rule 51. *Notice by Upper House of intention to depose archbishop or bishop*

Ecclesiastical Jurisdiction Measure 1963

Province of

To (State name of censured bishop or archbishop)

Whereas a censure of deprivation has been pronounced on you in pursuance of a resolution of the Upper House of the Convocation of [a joint meeting of the Upper Houses of the Convocations of both provinces] under section 37 of the Measure.

Take notice that the Upper House of the Convocation of intends to depose you from Holy Orders under section 51 of the Measure for the following reasons:—

(Here state the reasons for the deposition)

You have a right to submit, within one month after the service of this notice, written representations for the consideration of the said Upper House, and, if you wish to be heard before the said Upper House personally, you should inform the registrar of the Convocation accordingly.

No. 51

Application for taxation of party and party costs Rule 54 (2).

(Heading as in Form No. 7)

Application is hereby made by the complainant [promoter] [accused] to the registrar for the taxation of the costs payable in the above matter.

The bill of costs, and the papers and vouchers relating thereto, are lodged herewith.

Dated this day of , 19

Signature of applicant or his solicitor.

No. 52

Application for review of taxation Rule 56 (2).

(Heading as in Form No. 7)

Application is hereby made by the complainant [promoter] [accused] that the decision of the registrar dated the day of , 19 in taxing the costs in the above matter, be reviewed by the judge of the consistory court [Dean of the Arches and Auditor or his deputy].

Dated this day of , 19

Signature of applicant or his solicitor.

No. 53

Affidavit of Personal Service Rule 58 (1).

(Heading appropriate to nature and stage of proceedings, e.g. as in Form No. 7 or No. 8 or No. 11, if complaint is against priest or deacon.)

I, of , make oath and say as follows:—

1. I am the complainant [one of the complainants] [the solicitor acting for the complainant] [the promoter] [the solicitor acting for the promoter]

or I am a person in the permanent employment of , being the complainant [one of the complainants] [the solicitor acting for the complainant] [the promoter] [the solicitor acting for the promoter], and am over the age of 16 years.

2. On the day of 19 I served (here specify the document e.g. a copy of the complaint) on the accused by leaving it with him personally at (here specify the address or place at which the document was left with the accused)

Sworn etc.

No. 54

Acknowledgement of service by accused or his solicitor Rule 58 (1) (*a*).

(Heading—see Form No. 53)

I, , the accused [the solicitor acting for the accused] hereby acknowledge the service of (here specify the document e.g. a copy of the complaint).

Dated the day of 19

(Signature of accused or his solicitor.)

No. 55

Rule 58 (1) (*b*).

Affidavit in support of application for Substituted Service

(Heading—see Form No. 53)

I, of
make oath and say as follows:—

1. I am the complainant [one of the complainants] [the solicitor acting for the complainant] [the promoter] [the solicitor acting for the promoter],

or I am a person in the permanent employment of
, being the complainant [one of the complainants] [the solicitor acting for the complainant] [the promoter] [the solicitor acting for the promoter], and am over the age of 16 years.

2. I have taken the following steps for the purpose of effecting personal service on the accused of (here specify the document e.g. a copy of the complaint) :—

(The affidavit should here set out all the steps taken, with dates and places. If the whereabouts of the accused are not known, or if he is believed to have left the country, and the deponent has made enquiries as to his whereabouts, the affidavit should describe the enquiries and their results. If the matter has been handled by more than one person, each person should swear an affidavit as to the steps or enquiries taken or made by him personally.)

Sworn etc.

No. 56

Rule 58 (3)

Affidavit of service other than personal service

(Heading—see Form No. 53)

I, of ,
make oath and say as follows:—

1. I am the complainant [one of the complainants] [the promoter] [the accused] [the solicitor acting for the complainant *or* the promoter *or* the accused].

or I am a person in the permanent employment of
, being the complainant [one of the complainants] [the accused] [the solicitor acting for the complainant *or* the promoter *or* the accused].

2. On the day of 19 I effected service on the accused [complainant] [promoter] of (here specify the document) by delivering it at (here specify the address at which it was delivered, which should be the proper address prescribed by rule 58(3) or such address as may be directed by the registrar under rule 58(1) or (2)).

or I effected service on the accused [complainant] [promoter] of (here specify the document) by posting it the day before by the recorded delivery service in an envelope addressesd to the accused [complainant] [promoter], [the solicitor acting for the accused *or* complainant or promoter] at (here specify the address—see above), and I annex hereto a true copy of the official document recording the delivery thereof.

(If the registrar has directed some other mode of service under rule 58(1) or (2), paragraph 2 of the affidavit should specify the steps taken to effect such service, giving the date and place.)

Sworn etc.

No. 57

Interlocutory application Rule 60 (2).

(Heading—see Form 53)

The complainant [promoter] [accused] hereby applies to the registrar [Dean of the Arches and Auditor] [presiding judge of the Commission of Review] for (here state the relief sought, e.g. leave to file further affidavits of evidence for inquiry, postponement of trial, withdrawal of appeal etc.).

Dated this day of 19 .

Signature of applicant or his solicitor.

No. 58

Notice of appeal to examiner or committee of inquiry or judge Rule 60 (6).

(Heading—see Form 53)

The complainant [promoter] [accused] hereby gives notice that he is appealing from the decision of the registrar dated granting [refusing] an application for (here state nature of application) to the (here state the examiner, committee or judge to whom the appeal is made), on the following ground(s):—

(Here state ground(s) of appeal)

Dated this day of 19 .

Signature of appellant or his solicitor.

No. 59

Order for inspection of documents Rule 62 (1) (*a*).

(Heading as in Form No. 11, No. 20 or No. 31, as the case may be)

It is ordered that the accused [promoter] do, on reasonable notice, produce at (state place of inspection) the following documents (here specify them) and that the promoter [accused] be at liberty to inspect the documents so produced and to take copies and abstracts thereof and extracts therefrom.

Dated this day of 19 .

Signature of Registrar.

No. 60

Order for production of documents by party at trial Rule 62 (1) (*b*).

(Heading—see Form No. 59)

To the accused [promoter]

You are hereby ordered to produce and have available throughout the trial of the above case the following documents (here specify the documents).

Dated this day of 19 .

Signature of Registrar.

No. 61

Rule 62 (1) (*b*).

Order to witness to produce documents at trial

(Heading—see Form No. 59)

To of

You are hereby ordered to attend at the trial of the above case at on the day of 19 at the hour of , and so from day to day until the trial is concluded or you are released from attendance, to give evidence at the trial and to bring with you and produce the following documents (here specify the documents).

Dated this day of 19 .

Signature of Registrar.

No. 62

Rule 62 (1) (*c*).

Order to witness to give oral evidence

(Heading—see Form No. 59)

To

You are hereby ordered to attend at the trial of the above case at on the day of 19 at the hour of , and so from day to day until the trial is concluded or you are released from attendance, to give evidence at the trial.

Dated this day of 19 .

Signature of Registrar.

Rule 60 (2).

Note

The above forms Nos. 59 to 62 can be used, with the necessary modifications, if a Court or Commission makes an order under rule 62(2) at the trial or at the hearing of an appeal or petition for the inspection or production of documents or the attendance of witnesses.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

The Rules provide a code of procedure for the trial of offences under the Ecclesiastical Jurisdiction Measure 1963, and their arrangement closely follows the arrangement of the Measure. After general provisions for the laying of complaints in all cases, the Rules proceed to deal separately with the different kinds of offences and the different courts, whether of first instance or appellate.

The Rules also cover deposition from Holy Orders consequent on censures of deprivation, and deprivation and deposition consequent on certain judgments, orders and findings of secular courts.