

CYPRUS

**CHURCHES AND MONASTERIES
(INVESTIGATION, ETC.)**

CHAPTER 42 OF THE LAWS

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1959

CHAPTER 42.

CHURCHES AND MONASTERIES (INVESTIGATION,
ETC.).

ARRANGEMENT OF SECTIONS.

<i>Section</i>	<i>Page</i>
1 Short title	2
2 Interpretation	2
3 Power to apply for appointment of auditor and qualifications of applicant	3
4 Requisites of application	3
5 Procedure on receipt of application by Commissioner	4
6 Governor may request Diocesan Committee or council to appoint auditor	4
7 Procedure on appointment of auditor by Diocesan committee or council	5
8 Committee or council to defray fee of auditor and expenses of audit	5
9 Power to Governor to appoint auditor in certain circumstances	6
10 Power to Governor to order further investigation or audit	7
11 Service of orders of Governor	8
12 Publication in the Gazette... ..	8
13 Powers to auditor	8
14 Report by auditor	9
15 Fee to auditor appointed by the Governor	10
16 Power to Committee or council to recover costs of audit from defaulting member thereof in certain circumstances	10
17 Penalty for false representation or statement in auditor's report	11

A LAW TO PROVIDE FOR THE INVESTIGATION OF THE AFFAIRS
AND FOR THE AUDITING OF THE ACCOUNTS OF THE
CHURCHES AND MONASTERIES OF THE AUTOCEPHALOUS
GREEK-ORTHODOX CHURCH OF CYPRUS IN CERTAIN
CASES.

1949 Cap. 60.

[1st October, 1937.]

Short title.

1. This Law may be cited as the Churches and Monasteries of the Autocephalous Greek-Orthodox Church of Cyprus (Investigation and Audit) Law.

Interpre-
tation.

2. In this Law—

“affairs” means all or any matters, transactions or acts relating to the management or administration of movable or immovable property;

“auditor” means any person appointed as such under the provisions, and for any of the purposes, of this Law;

“church” means a parish or village church of the Autocephalous Greek-Orthodox Church of Cyprus;

“committee” means the body of persons for the time being exercising superintendence over, and management of, the affairs of any church or monastery;

“council” means the body of persons for the time being exercising superintendence over, and management of, the affairs of any independent monastery;

“Diocese” means the Archbishop’s Diocese, the Paphos Diocese, the Kitium Diocese or the Kyrenia Diocese of the Autocephalous Greek-Orthodox Church of Cyprus;

“Diocesan Committee” means the body of persons exercising superintendence over, and management of, the affairs of any Diocese;

“independent monastery” means the Monastery of Kykkou, the Monastery of Makheras or the Monastery of Ayios Neophytos;

“monastery” means any monastery of the Autocephalous Greek-Orthodox Church of Cyprus not being an independent monastery.

3. Any male person who—

(a) is ordinarily resident in the parish or village within which any church is situated, or

(b) is ordinarily resident in the Administrative District within which any monastery or independent monastery is situated, and who—

(i) is a member of the Autocephalous Greek-Orthodox Church of Cyprus, and

(ii) is of not less than twenty-five years of age,

Power to apply for appointment of auditor and qualifications of applicant.

may make an application to the Governor for the appointment of a competent person to investigate the affairs or to audit the accounts or to investigate the affairs and audit the accounts of such church, monastery or independent monastery, as the case may be.

4. Every application under section 3 shall—

(a) be in writing and signed by the applicant,

(b) be made to the Governor through the Commissioner,

(c) set out the grounds upon which it is founded, and

(d) state that the applicant possesses the qualifications prescribed in section 3.

Requisites of application.

Procedure
on receipt of
application
by Com-
missioner.

5. (1) Upon receipt of any application complying with the provisions of section 4, the Commissioner shall make such inquiry thereon as he shall think fit and shall thereafter transmit the application together with his recommendations thereon and any evidence adduced by the applicant in support of the application to the Governor for his consideration.

(2) For the purposes of any inquiry under subsection (1), the Commissioner may call upon the applicant to support his application by evidence showing—

- (a) that he possesses the qualifications prescribed by section 3, and
- (b) that he has good reason for, and is not actuated by malicious motives, in making the application.

Governor
may request
Diocesan
Committee
or council
to appoint
auditor.

6. (1) Where the Governor is satisfied that the application is well founded, the Governor may by letter of request under his hand call upon—

- (a) the Diocesan Committee, if the application is in respect of a church or monastery, or
- (b) the council, if the application is in respect of any independent monastery,

to appoint within such period as may be specified in such letter of request a competent and independent person being a member of the Autocephalous Greek-Orthodox Church of Cyprus to investigate the affairs or to audit the accounts or to investigate the affairs and audit the accounts of the church, monastery or independent monastery, as the case may be, to which the application relates.

(2) Every letter of request may contain provision for all or any of the following matters, that is to say—

- (a) the purpose for which the investigation of affairs or audit of accounts or the investigation of affairs and audit of accounts is required;
- (b) the terms under which such investigation or audit or investigation and audit is to be carried out;
- (c) the period within which such investigation or audit or such investigation and audit is to be completed;
- (d) the subject matters to be dealt with in the report of the auditor;

- (e) the matters in respect of which the auditor is required to make recommendations in the report;
 - (f) the period within which the auditor shall submit his report to the Governor, the Diocesan Committee, the committee or the council.
- (3) For the purposes of subsection (1), no person shall be deemed to be an independent person who is—
- (a) a member of any Diocesan Committee, committee, or council, or
 - (b) a member of any monastery or independent monastery, or
 - (c) in the employment or service of any Diocese, church, monastery or independent monastery :

Provided that a person who is engaged from time to time or for a specified period by a Diocesan Committee or council to audit the accounts of any Diocese, church, monastery or independent monastery upon payment of a special fee and who has not previously audited the particular accounts of the church, monastery or independent monastery to which the application relates shall not for the purposes of this paragraph be deemed to be in the employment or service of any Diocese, church, monastery or independent monastery.

7. Where in pursuance of a letter of request issued under section 6 (1), the Diocesan Committee or the council concerned appoints an auditor, the Chairman thereof shall within seven days of the date of such appointment notify in writing the name, occupation and address of the person so appointed to the Administrative Secretary, and shall within the period aforesaid serve or cause to be served on the person so appointed a copy of the letter of request, and the Chairman of the Diocesan Committee shall also within the period aforesaid serve or cause to be served upon the Chairman of, or other person presiding over, the Committee concerned a copy of the letter of request.

Procedure on appointment of auditor by Diocesan committee or council.

8. The fee of the auditor appointed by the Diocesan Committee or council under the provisions of section 7, and the expenses of, and incidental to, any investigation of affairs or audit of accounts or any investigation of affairs and audit of accounts carried out by such auditor shall be

Committee or council to defray fee of auditor and expenses of audit.

defrayed by the committee or council concerned from the funds of the church, monastery or independent monastery the affairs or accounts of which are the subject of such investigation or audit or such investigation and audit.

Power to
Governor to
appoint
auditor in
certain cir-
cumstances.

9. (1) Where—

- (a) the Diocesan Committee or council fails or neglects to appoint a duly qualified auditor within the period specified in a letter of request issued under section 6 (1), or
- (b) the Diocesan Committee or council fails or neglects to notify in writing the appointment of an auditor to the Administrative Secretary within the period specified in such letter of request, or
- (c) the auditor appointed by the Diocesan Committee or council—
 - (i) fails or neglects to complete the investigation or audit or the investigation and audit, as the case may be, within the period specified in such letter of request, or
 - (ii) fails or neglects to submit his report to the Governor through the Administrative Secretary within the period specified in such letter of request,

the Governor may by order under his hand appoint a competent person being a member of the Autocephalous Greek-Orthodox Church of Cyprus to investigate the affairs or to audit the accounts or to investigate the affairs and audit the accounts of the church, monastery or independent monastery in respect of which the application has been made.

(2) Before making any order under subsection (1), the Governor may require the applicant to furnish security in such form and to such amount as he may direct for the payment of the fee of the auditor and the expenses of, and incidental to, the investigation of the affairs or the audit of the accounts or the investigation of the affairs and the audit of the accounts of the church, monastery or independent monastery concerned, as the case may be (in this section together referred to as “the expenses”).

(3) The expenses shall be defrayed by the Diocesan Committee or council concerned from the funds of the Diocese or the independent monastery, as the case may be :

Provided that if such Diocesan Committee or council fails or neglects or is unable to pay the whole or any part of the sum which it is liable to pay under this subsection the applicant shall pay such sum and may recover the same, with costs, from the Diocesan Committee or council in default by civil proceedings instituted before a competent Court.

(4) Every order made by the Governor under subsection (1) may contain provision for all or any of the matters set out in section 6 (2).

10. (1) Where the applicant is dissatisfied with the report of the auditor appointed by the Diocesan Committee or council under section 7, the applicant may make a further application to the Governor for the appointment by him of a competent person to carry out an investigation of the affairs or an audit of the accounts or an investigation of the affairs and an audit of the accounts of the church, monastery or independent monastery to which the report relates.

Power to Governor to order further investigation or audit.

(2) Every application under this section shall—

- (a) be in writing and signed by the applicant,
- (b) be made to the Governor through the Administrative Secretary, and
- (c) set out the grounds upon which it is founded.

(3) Where the Governor is satisfied that the application is well founded, the Governor may by order under his hand appoint a competent person being a member of the Autocephalous Greek-Orthodox Church of Cyprus to carry out an investigation or audit or an investigation and audit, as the case may be.

(4) Before making any order under subsection (3), the Governor may require the applicant to furnish security in such form and to such amount as he may direct for the payment of the fee of the auditor and the expenses of, and incidental to, such investigation or audit or such investigation and audit, as the case may be (in this section together referred to as "the expenses").

(5) The expenses shall be defrayed by the committee or council concerned from the funds of the church, monastery or independent monastery the affairs or accounts of which are the subject of such investigation or audit, or such investigation and audit, unless the Governor thinks proper

to direct, as he is hereby authorized to do, that they shall either be paid by the applicant or in part by the committee or council concerned and in part by the applicant :

Provided that if the committee or council fails or is unable to pay the whole or any part of the sum which it is liable or directed to pay under this section, the applicant shall pay the whole of such sum or shall make good the deficiency, as the case may be, up to the amount of the security furnished by him under subsection (4) :

Provided further that, if the failure of the committee or council to pay the whole of any part of such sum as aforesaid, is due to the wilful neglect or refusal of such committee or council and the committee or council has funds at its disposal therefor the applicant who has paid the same shall be entitled to recover the amount so paid, with costs, from the committee or council in default by civil proceedings instituted before a competent Court.

(6) Every order made by the Governor under subsection (3) may contain provision for all or any of the matters set out in section 6 (2).

Service of
orders of
Governor.

11. A copy of every order made by the Governor under section 9 (1) or 10 (3) shall be served—

- (a) upon the auditor appointed by such order, and
- (b) upon the Chairman of, or other person presiding over, the committee or council concerned.

Publication
in the
Gazette.

12. Any letter of request issued, or any order made, by the Governor under the provisions of this Law, and any report of an auditor appointed under the provisions of this Law, may if the Governor so directs be published in the Gazette.

Powers to
auditor.

13. (1) For the purpose of any investigation of affairs or audit of accounts or of both such investigation and audit under this Law the auditor may by reasonable notice in writing under his hand require—

- (a) the production before him of all books and documents in the custody or power of the committee or council concerned;
- (b) any person holding or accountable for any such books or documents to appear before him at any such investigation or audit, or at any such

investigation and audit, or any adjournment thereof, and

(i) make and sign a declaration as to the correctness of such books or documents, and

(ii) answer truly all questions put to him by the auditor;

- (c) any member of the committee or council concerned to appear before him at any such investigation or audit, or at any such investigation and audit, or any adjournment thereof, and to answer truly all questions put to such member by the auditor.

(2) Any person who is required to answer questions put to him by the auditor under subsection (1) shall not be compelled to answer any question the answer to which would have a tendency to expose him to a criminal charge or any question the answer to which would be excluded on grounds of public policy or privilege if given before a Court of Law.

(3) Any person who—

(a) neglects or refuses to appear before such auditor or to produce any such books or documents, or to make or sign any such declaration, or

(b) falsely or corruptly makes or signs any such declaration, knowing the same to be untrue in any material particular, or

(c) refuses to answer, or answers falsely, any question put to him by the auditor as provided by this section,

shall be guilty of an offence and shall be liable to imprisonment for six months or to a fine of fifty pounds or to both.

14. (1) On the conclusion of any investigation of affairs or audit or accounts, or of any investigation of affairs and audit of accounts, as the case may be, the auditor shall make and sign a report upon the affairs or accounts which have been investigated or audited.

Report by
auditor.

(2) Where the auditor has been appointed by a Diocesan Committee, the auditor shall make and sign the report in quadruplicate and shall submit—

- (a) two copies to the Governor through the Administrative Secretary,

(b) one copy to the Diocesan Committee concerned, and

(c) one copy to the committee concerned.

The Administrative Secretary shall transmit one of the copies received to the applicant.

(3) Where the auditor has been appointed by a council, the auditor shall make and sign the report in triplicate and shall submit—

(a) two copies to the Governor through the Administrative Secretary, and

(b) one copy to the council concerned.

The Administrative Secretary shall transmit one of the copies received to the applicant.

(4) Where the auditor has been appointed by the Governor, the auditor shall make and sign the report in quadruplicate and shall submit the same to the Governor through the Administrative Secretary, and upon receipt thereof the Administrative Secretary shall transmit—

(a) one copy to the applicant,

(b) one copy to the committee or council concerned, and

(c) one copy to the Chairman of, or other person presiding over, the Diocesan Committee of the Diocese within which the church, monastery or independent monastery concerned is situated.

(5) The auditor shall submit the report as in this section provided within the period specified in any letter of request issued, or in any order made, by the Governor, as the case may be.

Fee to auditor appointed by the Governor.

15. An auditor appointed by the Governor under section 9 (1) or 10 (3) shall be paid such fee by way of remuneration as may be fixed by the Governor in each case.

Power to Committee or council to recover costs of audit from defaulting member thereof in certain circumstances.

16. Where any committee or council has under any of the provisions of this Law defrayed from the funds of any church, monastery or independent monastery the fee of any auditor and the expenses of, and incidental to—

(a) any investigation of the affairs, or

(b) any audit of the accounts, or

(c) any investigation of the affairs and audit of the accounts,

of such church, monastery or independent monastery, the

committee or council concerned shall be entitled to recover the amount so defrayed, with costs, by civil proceedings instituted before a competent Court from the member or members of the committee or council who may be shown by the report of the auditor to have been in default.

17. If any auditor in any report required by and submitted under the provisions of this Law wilfully makes a representation or statement false in any material particular knowing the same to be false, he shall be guilty of an offence and shall be liable to imprisonment for six months or to a fine of fifty pounds or to both.

Penalty for false representation or statement in auditor's report.

