



# Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1)

1991 No. 1

## PART III

### ECCLESIASTICAL JURISDICTION

#### 17 Faculties for demolition of churches

- (1) A court shall not grant a faculty for the demolition or partial demolition of a church except on the grounds specified in this section.
- (2) Subject to the following provisions of this section, a court may grant a faculty for the demolition of the whole or part of a church if it is satisfied that another church or part of a church will be erected on the site or curtilage of the church or part of a church in question or part thereof to take the place of that church or part of a church.
- (3) Subject to the following provisions of this section, a court may grant a faculty for the demolition of part of a church if it is satisfied that—
  - (a) the part of the church left standing will be used for the public worship of the Church of England for a substantial period after such demolition; or
  - (b) such demolition is necessary for the purpose of the repair or alteration of the church or the reconstruction of the part to be demolished.
- (4) The court shall not grant a faculty under subsection (2) or (3)(a) above unless—
  - (a) the person bringing proceedings for the faculty has—
    - (i) obtained the written consent of the bishop of the diocese concerned to the proceedings being brought; and
    - (ii) within the prescribed time, caused to be published in “The London Gazette” and in such other newspapers as the court may direct a notice stating the substance of the petition for the faculty;
  - (b) the registrar has given notice in writing to the Council for the Care of Churches and the advisory committee of the diocese concerned of the petition;

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*Status: This is the original version (as it was originally enacted).*

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- (c) the judge of the court has thereafter considered such advice as the advisory committee has tendered to the court; and
  - (d) the judge has heard evidence in open court, after application for the purpose has been made to the court in the prescribed manner, from—
    - (i) a member of the said Council or some person duly authorised by the Council; and
    - (ii) any other person, unless in the opinion of the judge his application or the evidence which he gives is frivolous or vexatious.
- (5) Without prejudice to the requirements of subsection (4) above, the court shall not grant a faculty under subsection (2) or (3)(a) above in the case of a church which is a listed building or in a conservation area unless—
- (a) the registrar has given notice in writing to—
    - (i) the Secretary of State;
    - (ii) the local planning authority concerned;
    - (iii) the Historic Buildings and Monuments Commission for England; and
    - (iv) the national amenity societies;
  - (b) the judge of the court has thereafter considered such advice as any of those bodies may have tendered to the court;
  - (c) the registrar has given notice in writing to the Royal Commission on the Historical Monuments of England and thereafter either—
    - (i) for a period of at least one month following the giving of the notice reasonable access to the church has been made available to members or officers of the said Royal Commission for the purpose of recording it; or
    - (ii) the said Royal Commission have, by their Secretary or other officer of theirs with authority to act on their behalf for the purposes of this section, stated in writing that they have completed their recording of the church or that they do not wish to record it.
- (6) A court shall not grant a faculty under subsection (3)(b) above unless—
- (a) the court is satisfied, after consultation with the advisory committee, that when the proposed repair, alteration or reconstruction is completed the demolition will not materially affect the external or internal appearance of the church or the architectural, archaeological, artistic or historic character of the church; or
  - (b) the requirements of subsection (4) above and also, in the case of a church which is a listed building or in a conservation area, the requirements of subsection (5) above have been complied with.
- (7) Anything done under or for the purposes of section 2 of the 1964 Measure and having effect immediately before the coming into force of this section shall continue to have effect and be deemed to have been done under or for the purposes of this section.