
STATUTORY INSTRUMENTS

2000 No. 2047

The Faculty Jurisdiction Rules 2000

PART I

PRELIMINARY

Citation, Commencement and Revocation

1.—(1) These Rules may be cited as the Faculty Jurisdiction Rules 2000 and shall come into force on the first day of January 2001.

(2) The Faculty Jurisdiction Rules 1992(1), are hereby revoked.

Interpretation

2.—(1) In these Rules

“The archdeacon” means the archdeacon of each archdeaconry in the diocese;

“advisory committee” in relation to a diocese or archdeaconry means the Diocesan Advisory Committee of the diocese or of the diocese in which the archdeaconry is situated, as the case may be;

“article” includes any article appertaining to a building which is subject to the faculty jurisdiction by virtue of an order made under section 11(4) of the Measure;

“the chancellor” and “the registrar” mean, in relation to any proceedings, the chancellor and the registrar respectively of the diocese in which the church, churchyard or building licensed for public worship (which is for the time being subject to the faculty jurisdiction by an order made under section 6 of the Faculty Jurisdiction Measure 1964(2) or which is not excluded from the faculty jurisdiction by order under section 11(3) of the Measure) is situated, and include any person appointed to act as the deputy of the chancellor or registrar, as the case may be;

“church” includes the curtilage of a church unless the context otherwise requires;

“churchyard” includes a consecrated burial ground not adjacent to the church;

“confirmatory faculty” means a faculty which validates any act requiring a faculty (including any work to the fabric or fixtures of any church or any movables therein, or the introduction into or removal from the church or churchyard of any item, or any work affecting any churchyard) which has been done without prior authorisation by faculty;

“the Council” refers to the Council for the Care of Churches;

“English Heritage” means the Historic Buildings and Monuments Commission for England;

“exhumation” means the removal from the ground, catacomb, mausoleum, or columbarium of a body or cremated human remains;

(1) S.I.1992/2882.

(2) 1964 No. 5.

“interim faculty” means any licence or order made by the chancellor in respect of any works or proposals pending the final determination by him of a petition for faculty for such works or proposals;

“listed church” or “listed building” means a building which is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990;

“The Measure” means the Care of Churches and Ecclesiastical Jurisdiction Measure 1991;

“minister” has the same meaning in these Rules as in the Measure;

“national amenity society” means any of the following, the Ancient Monuments Society, the Council for British Archaeology, the Georgian Group, the Society for the Protection of Ancient Buildings, the Victorian Society, the Twentieth Century Society and such other body as may from time to time be designated by the Dean of the Arches and Auditor as a national amenity society for the purpose of the Measure;

“Statement of Needs” means a document which set out the reasons why it is considered that the needs of the parish cannot be met without making changes to the church building and the reasons why the changes are regarded as necessary to assist the church in its worship and mission;

“Statement of Significance” means a document which summarises the historical development of the church and identifies the important features that make major contributions to the character of the church.

(2) The Interpretation Act 1978 (3) shall apply for the interpretation of these Rules as it applies for the interpretation of Measures passed by the General Synod.

PART II

PETITION AND PUBLIC NOTICE

Seeking Advisory Committee Advice

3.—(1) Before submitting a petition for a faculty in the consistory court intending applicants should seek the advice of the advisory committee in respect of the works or other proposals for which a faculty is required (except where the action proposed relates exclusively to exhumation or the reservation of a grave space).

(2) Except in a case within paragraph (4) intending applicants should submit to the advisory committee designs, plans, photographs and other documents giving particulars of the works or other proposals together with a summary list of the works or proposals.

(3) Where significant changes to a listed church are proposed the intending applicant should—

- (a) provide the advisory committee (in addition to the particulars required by paragraph (2) of this rule) with a Statement of Significance and a Statement of Needs, and
- (b) if the works fall within paragraph 1 of Appendix B consult English Heritage, such of the national amenity societies as appears likely to have an interest in the church or the works, and the local planning authority in accordance with Appendix B.

(4) Where the intending applicants are proposing to carry out works to a tree or trees in a churchyard or in a consecrated burial ground for which a faculty is required they shall complete Form No. 16 in Appendix C and send it to the advisory committee at the time of seeking the advice of the advisory committee in respect of the proposed works.

(5) If the advisory committee decides to recommend the works or proposals or to raise no objection to them its decision together with any provisos shall be set out in a certificate in Form No. 1 in Appendix C and shall be sent to the intending applicants together with the designs, plans, photographs and other documents which were submitted to the advisory committee under paragraph (2) of this rule and are the subject of the certificate.

(6) If the advisory committee decides not to recommend the works or proposals it shall inform the intending applicants by way of a certificate in Form No. 1 in Appendix C and shall advise them that they are entitled to petition for a faculty from the chancellor, if they so wish, notwithstanding the committee's decision.

(7) When the advisory committee issues a certificate under paragraph (5) or (6) the certificate may include a recommendation to the intending applicants that they should consult English Heritage, or the local planning authority, or one or more of the national amenity societies, or the Council for the Care of Churches or any other body or person about some or all of the works or other proposals for which a certificate is sought if they have not already done so, and the advisory committee shall consider including such a recommendation in any case where it appears to the committee that the works—

- (a) involve alteration to or extension of a listed church to such an extent as is likely to affect its character as a building of special architectural or historic interest, or
- (b) are likely to affect the archaeological importance of the church or archaeological remains existing within the church or its curtilage, or
- (c) in the case of an unlisted church in a conservation area, will involve demolition affecting the exterior of the church.

Submission of Petition

4.—(1) As soon as they have received the advice of the advisory committee under paragraph (5) or (6) of rule 3 the applicants may submit to the diocesan registry a petition for a faculty in Form No. 2 in Appendix C in respect of the works or other proposals and

- (a) the works or other proposals shall be fully and accurately stated in the petition and shall be the same as those in respect of which the advisory committee has supplied a certificate in Form No. 1 in Appendix C under paragraph (5) or (6) of rule 3, and
- (b) any designs, plans, photographs and other documents giving particulars of the works or proposals for which the faculty is required, together with the certificate of the advisory committee relating to those documents, shall be submitted with the petition.

(2) Where significant changes to a church are proposed a copy of the designs, plans, photographs and other documents submitted with the petition shall be displayed in the church to which the works or other proposals relate and shall remain on display until the petition for a faculty has been determined.

(3) As soon as they have received the advice of the advisory committee under rule 3(5) or (6) in respect of works within rule 3(4) the applicants may send or deliver to the diocesan registry the petition for a faculty in Form No. 16 in Appendix C which was considered by the advisory committee.

(4) Notwithstanding that any of the requirements of rule 3 have not been complied with a petition may at any time be submitted to the diocesan registry and every petition shall (subject to rule 36) be in Form No. 2 or in Form No. 16 in Appendix C.

Petition for Partial Demolition or Demolition

5. A Petition for a faculty for the partial demolition or demolition of a church shall include all such statements and information, so far as relevant, as are required by Form No. 2 in Appendix C.

Public Notice of Petition for a Faculty

6.—(1) As soon as a petitioner is ready to submit a petition for a faculty the petitioner shall fill in the public notice in Form No.3 in Appendix C (except where the petitioner is not the minister or a churchwarden or where the petition relates to exhumation or reservation of a grave space) and shall describe the works or proposals in the public notice in the same manner as they are described in the schedule to the petition.

(2) Notwithstanding paragraph (1) above any petitioner may, if he so wishes, consult the registrar for advice prior to completing any petition or public notice, and he should do so in respect of a public notice where the petition relates to a matter which is not within Appendix A.

(3) As soon as a petitioner has filled in the public notice he shall immediately—

- (a) send or deliver to the registry the petition and the documents required by rule 4(1)(b) and a copy of the completed public notice; and
- (b) display the public notice in accordance with paragraph (4) below save that if he is not the minister or a churchwarden he shall send the public notice to the registrar for directions about display; and
- (c) send a copy of the public notice to English Heritage or other grant making body in accordance with the terms of any previous grant.

(4) Subject to paragraph (3)(b) of this rule and rule 13(10) a copy of the public notice shall be displayed for a continuous period of not less than 28 days in accordance with paragraphs (a) to (d) of this paragraph.

(a) Display of the public notice shall take place as follows:

- (i) in the case of a petition relating to a parish church or its churchyard, display of the notice shall be at that parish church;
- (ii) in the case of a petition relating to a church or place of worship (or any churchyard belonging to it) which is not a parish church, display of the notice shall be at that church or place of worship and also at the parish church or parish churches of the parish;
- (iii) in the case of a petition relating to any other churchyard or consecrated burial ground, display of the notice shall be at the parish church (if any) and the churchyard or consecrated burial ground concerned.

(b) Display of the notice shall take place under paragraphs (a)(i) and (ii)—

- (i) inside the church on a notice board or in some other prominent position, and
- (ii) on a notice board outside that church or in some other prominent position (whether on the outside of the church door or elsewhere) so that it is readily visible to the public.

(c) Display of the notice shall take place in accordance with paragraphs (b)(i) and (ii) in respect of each church or place of worship where display is required under paragraphs (a) (i) and (ii).

(d) Display of the notice in accordance with paragraph (a)(iii) shall take place on a notice board outside the parish church (if any) and on a notice board or other suitable place at the churchyard or consecrated burial ground concerned so that it is readily visible to the public.

(5) If on receipt of the petition and copy public notice the registrar considers that—

- (a) the works or proposals are not adequately described in the public notice, or
- (b) a copy of the public notice should be displayed inside or outside any other church or place of worship in the parish concerned, or

- (c) a copy of the public notice should be displayed in some prominent position elsewhere in the parish concerned (whether inside or outside a building) where it will be clearly visible to the public, or
- (d) the public notice should be displayed for a longer period than is provided for in paragraph (4) of this rule

then the registrar may give such directions to the petitioners as are appropriate in the circumstances of the case.

(6) Upon the expiry of the period of 28 days required under paragraph (4) or such longer period as may be directed under paragraph (5)(d) of this rule the public notice or a copy thereof shall be returned to the registrar by the petitioners with the certificate of publication duly completed in accordance with Form No. 3 in Appendix C.

PART III

MATTERS WITHIN THE ARCHDEACON'S JURISDICTION

Allocation to the Archdeacon

7.—(1) Where a petition for a faculty for any of the works or other proposals specified in Appendix A to these Rules (not being works falling within rule 13(3)) is unopposed and the advisory committee recommends the works or proposals in question or raises no objection to them, the archdeacon may exercise the jurisdiction of the consistory court of the diocese in respect of every petition for faculty arising in that archdeaconry to the extent provided in that Appendix.

(2) Subject to rule 8, if the registrar is satisfied that the subject matter of the petition falls within the jurisdiction conferred upon an archdeacon under paragraph (1) of this rule the registrar shall endorse the petition accordingly and send it to the archdeacon for consideration.

(3) An archdeacon with jurisdiction under paragraph (1) shall not make a final determination in relation to any petition for faculty without first seeking the advice of the advisory committee in respect of the works or proposals the subject of the petition, provided that where the advisory committee supplied a certificate in Form No. 1 under rule 3(5) above in respect of the same works or proposals not more than 12 months prior to the submitting of the petition the advisory committee may, if appropriate, confirm that they do not wish to alter that certificate.

(4) Having decided to grant a faculty the archdeacon shall endorse the petition accordingly and shall return it to the registrar whereupon the registrar on the expiry of the period for objection specified in rule 16 and provided the petition is unopposed shall issue—

- (a) the faculty in Form No. 5 in Appendix C, and
- (b) a certificate in Form No. 6 in Appendix C to be completed in accordance with the requirement in the faculty.

(5) If any person objects to the grant of a faculty before the archdeacon has determined the matter the registrar shall notify the archdeacon who shall immediately return the petition to the registrar and if an objection is received after the archdeacon has endorsed the petition under paragraph (4) above the archdeacon's decision shall be of no effect and the petition shall be referred to the chancellor by the registrar and be dealt with by the chancellor.

Referral from the Archdeacon to the Chancellor

8.—(1) An archdeacon who—

- (a) is the minister of the parish to which the petition relates, or

- (b) has been personally involved with the petitioners in relation to the subject matter of the petition or otherwise to such an extent that the archdeacon deems it inappropriate to act in the matter

shall decline to exercise jurisdiction in relation to the petition for a faculty and shall so inform the registrar prior to the allocation of the petition, or if this is not practicable shall as soon as possible return the petition and accompanying papers to the registrar who shall immediately endorse the petition as one to be dealt with by the chancellor.

(2) An archdeacon may for any reason decline in advance to exercise jurisdiction in relation to any petition for faculty within Appendix A and may after referral of a petition falling within the archdeacon's jurisdiction, return the petition to the registrar with a request that the petition or any matter raised in it be referred to the chancellor for decision or advice.

(3) If an archdeacon becomes aware of any matter for which a faculty is required and considers that the matter—

- (a) needs to be dealt with as a matter of urgency without reference to the advisory committee for advice in accordance with section 15(2) of the Measure, or
- (b) may necessitate the issue of an injunction, the making of a restoration order or the grant of any interim faculty pending the final determination of the matter, or
- (c) gives rise to any question as to the payment of costs or expenses,

then whether or not a petition has been submitted the archdeacon shall inform the registrar who shall immediately refer the matter to the chancellor who may give such licence or other directions in respect of the matter on such terms or conditions as are appropriate in the circumstances of the case.

Temporary Re-ordering

9.—(1) On the application of a minister and the majority of the parochial church council an archdeacon may give a licence in writing in accordance with Form No. 7 in Appendix C for a temporary period not exceeding 15 months for a scheme of minor re-ordering provided the archdeacon is satisfied that—

- (a) the scheme does not involve any interference with the fabric of the church and
- (b) it does not involve the fixing of any item to the fabric of the church nor the disposal of any fixture and
- (c) if the scheme involves the moving of any item, the same is to be done by suitably competent or qualified persons and such item will be safeguarded and stored in the church or in such other place as is approved by the archdeacon, and can easily be reinstated.

(2) The archdeacon may add such other conditions to the licence as may be considered necessary.

(3) A copy of any such licence shall be submitted to the registrar and the secretary to the advisory committee.

(4) The period specified in the licence shall not be extended by the archdeacon provided that where a petition for a chancellor's faculty in respect of the scheme is submitted to the registry not later than two months before the expiry of the period the scheme shall be deemed to be authorised until the determination of the petition by the chancellor.

(5) An archdeacon may for any reason decline to grant such a licence in which event the archdeacon shall advise the minister to apply to the chancellor for an interim faculty authorising the scheme.

Referral by the Registrar to the Chancellor

10.—(1) Notwithstanding anything in rule 7(1) the registrar shall refer the petition to the chancellor when it appears that—

- (a) a confirmatory faculty is required, or
- (b) the proposed works or proposals raise a question of law or as to the doctrine, ritual or ceremonial of the Church of England or affect the legal rights of any person or body, or
- (c) any person or body may need to be specially notified, or
- (d) there is uncertainty whether the subject matter of the petition falls within the jurisdiction conferred on the archdeacon by rule 7(1), or
- (e) the advisory committee has not recommended the works or proposals and has so certified by paragraph 4 of Form No. 1 in Appendix C, or
- (f) the petition raises matters which may justify the issue of any injunction, or
- (g) for any other reason it is desirable to refer the petition to the chancellor.

(2) Where a matter is being dealt with by the archdeacon if at any stage in the proceedings the registrar becomes aware that information supplied in the petition is incorrect, or that information has been omitted from the petition, so that the matter falls outside the jurisdiction conferred on the archdeacon under rule 7(1) the registrar shall in writing immediately cancel the allocation of the petition to the archdeacon, give written notice thereof to the archdeacon and refer the matter to the chancellor, and the archdeacon shall immediately return the petition and accompanying documents to the registrar.

(3) If any petition is referred to the chancellor pursuant to rules 8(1) or (2), or 10(1) or (2) above then, unless the chancellor orders otherwise, the matter shall proceed from the stage reached in the proceedings immediately before the petition was sent to the archdeacon under rule 7(2) as if the petition had been presented to the chancellor from the commencement of the proceedings.

Register of Petitions

11. On receipt of any petition for a faculty for which the advice of the advisory committee is required to be sought under the Measure or these Rules the registrar shall notify the secretary to the advisory committee of the details of the petition in Form No. 8 in Appendix C and the secretary shall enter the details in the register of petitions maintained on behalf of the advisory committee.

PART IV

MATTERS WITHIN THE CHANCELLOR'S JURISDICTION

Matters for Chancellor

12.—(1) Unless otherwise provided in these Rules all faculty matters shall be dealt with by the chancellor.

(2) Any faculty granted by the chancellor in unopposed proceedings shall (subject to rule 36) be issued by the registrar in Form No. 5 in Appendix C together with a certificate in Form No. 6 in Appendix C to be completed in accordance with the requirement in the faculty.

Requirements as to Notice of Petition

13.—(1) If the chancellor directs or the law otherwise requires any person to be specially notified the registrar shall serve on him a copy of the public notice.

(2) The chancellor may order that relevant details from the public notice be published in such newspapers or other publications and within such period of time as the chancellor directs.

(3) Subject to the generality of rule 13(1), where it appears to the chancellor on preliminary consideration of the petition that the works for which a faculty is sought

- (a) involve alteration to or extension of a listed church to such an extent as is likely to affect its character as a building of special architectural or historic interest, or
- (b) are likely to affect the archaeological importance of the church or archaeological remains existing within the church or its curtilage, or
- (c) involve demolition affecting the exterior of an unlisted church in a conservation area

then, unless it appears to the chancellor from the available information that each of the following bodies has previously been consulted about those works and has indicated that it has no objection or comment to make the chancellor shall direct that English Heritage, the local planning authority and such of the national amenity societies as appears to be likely to have an interest in the church or the works shall be specially notified in accordance with the criteria applicable to consultation set out in paragraphs 2, 3 or 4 of Appendix B as appropriate.

(4) In any case falling within

- (i) paragraph (3)(a) of this rule which affects a grade I or grade II* listed church or the exterior of a grade II listed church, or
- (ii) paragraph 3(c) of this rule,

the chancellor shall direct that a notice stating the substance of the petition and giving a date by which any objection is to reach the registrar shall be published by the petitioners in a newspaper circulating in the locality and publication shall take place within 14 days of the giving of the direction, or within such other period as the chancellor may direct.

(5) If the chancellor considers that the works or proposals intended to be carried out in a churchyard will or may affect a grave or memorial maintained by the Commonwealth War Graves Commission the chancellor shall direct that the Commonwealth War Graves Commission be specially notified and the registrar shall pursuant to such direction serve on the said Commission a copy of the public notice.

(6) Where a body has been specially notified pursuant to paragraph (3) or (5) of this rule that body shall have a period of 28 days from the date of service of special notice within which to send to the registry and the petitioners a written notice of objection containing the information required by Form No 4 in Appendix C or to send comments to the registrar in respect of the proposed works.

(7) Where the petition is for a faculty for the partial demolition or demolition of a church and falls within section 17(2) or (3)(a) of the Measure

- (a) the registrar shall give notice in writing to the bodies specified in section 17(4)(b) and, if relevant, to the bodies specified in section 17(5)(a) of the Measure and the bodies concerned shall have a period of 28 days from the date of the notice within which to give advice or to send to the registry and the petitioners a written notice of objection containing the information required by Form No 4 in Appendix C in respect of the proposed partial demolition or demolition,
- (b) the notice stating the substance of the petition (which is required by section 17(4)(a)(ii) of the Measure to be published by the petitioners in the London Gazette and in such other newspaper as the chancellor may direct) shall be published:
 - (i) in the case of the London Gazette not more than 28 days after the petition was submitted to the registry,

(ii) in the case of such other newspapers (including a newspaper circulating in the locality) within such period as the chancellor shall direct or, if no period is directed, within 14 days of the giving of the direction.

(8) Where a petition relates exclusively to exhumation or reservation of a grave space or in any case where the chancellor gives directions in relation to a public notice or an amended public notice than subject to paragraph (9) below the registrar shall complete the public notice and give such directions for display of the public notice under rule 6(5)(b) to (d) as the registrar considers appropriate or as the chancellor has directed.

(9) In the case of petition for a faculty for exhumation, the chancellor shall have the following powers that is to say:

- (a) if the chancellor is satisfied that any near relatives of the deceased person still living and any other persons who in the opinion of the chancellor it is reasonable to regard as being concerned with the matter are the petitioners or that they consent to the proposed faculty being granted, then the chancellor may dispense with the issue of a public notice and decree the issue of the faculty immediately;
- (b) in any other case the chancellor may dispense with public notice and may direct that any of the persons referred to in sub-paragraph (a) above who are not the petitioners shall be specially notified.

(10) In any case where the chancellor is satisfied that a matter is an emergency that involves interests of safety or health, or the preservation of a church or part of it, and is of sufficient urgency to justify the grant of a faculty without obtaining the advice of the advisory committee, the chancellor

- (a) may dispense with the display of a notice under rule 6, and
- (b) having regard to all the circumstances may direct that a short period of notice be given to the persons or bodies identified in the directions,

and thereafter the chancellor may order the issue of a faculty immediately.

Advice of Advisory Committee

14. Save where a petition relates exclusively to exhumation or reservation of a grave space or the chancellor is satisfied that the matter is sufficiently urgent to justify the grant of a faculty without obtaining the advisory committee's advice the chancellor shall not make a final determination in any cause of faculty without first seeking the advice of the advisory committee in respect of the works or proposals the subject of the petition, provided that where the advisory committee supplied a certificate in Form No 1 under rule 3(5) in respect of the same works or proposals not more than 12 months prior to the submission of the petition the advisory committee may, if appropriate, confirm that they do not wish to alter that certificate.

Consultation with the Council for the Care of Churches

15.—(1) Paragraph (2) of this rule applies where a petition for a faculty—

- (a) concerns an article of particular historic, architectural, archaeological or artistic interest, and involves the introduction, conservation, alteration or disposal of that article,
- (b) involves the alteration to or extension of a listed church or re-ordering of any church, which is likely in the opinion of the chancellor significantly to affect (when completed) the setting of any such article as is described in sub-paragraph (a), or
- (c) involves the movement or removal of any such article, which in the opinion of the advisory committee may be adversely affected thereby unless specific precautions are taken.

(2) Where paragraph (1) applies then, unless the chancellor is satisfied that there has already been consultation with the Council for the Care of Churches in respect of the proposals the subject

of the petition, insofar as they relate to the article in question, the chancellor shall direct the registrar to serve on the Council notice in Form No 9 in Appendix C.

(3) In any case not within paragraph 1 of this rule where the chancellor considers that advice from the Council would be of assistance in relation to a petition for a faculty, the chancellor may direct the registrar to serve on the Council notice in Form No. 9.

(4) Where notice in Form No. 9 is served under this rule, the registrar shall also serve on the Council a copy of the petition and such plans and other relevant documents which were submitted to the Registry under rule 4(1) as the registrar considers appropriate.

(5) The written advice of the Council in response to such a notice shall be sent to the registrar as soon as practicable but in any event no later than six weeks from the date of receipt of the notice; if no such advice is received within six weeks (or such longer period as may be granted on request from the Council), the chancellor may proceed to determine the petition without such advice.

(6) For the purposes of this rule, 'article' includes not only an ornament or moveable object but also an object fixed to land or a building, and a part of any such object.

Objections to Petition

16.—(1) Any interested person who wishes to object to a proposed faculty being granted for all or some of the works or other proposals shall at any time during the period of 28 days display of public notice of the petition required by rule 6(4) or such longer period as may be directed under rule 6(5)(d) write to the registrar and to the petitioners a letter of objection so as to arrive within the period of 28 days.

(2) In this rule “interested person”, in relation to a petition for a faculty, means—

- (a) any person who is resident in the ecclesiastical parish concerned and any person whose name is entered on the church electoral roll of the ecclesiastical parish concerned but who does not reside therein;
- (b) the archdeacon of the archdeaconry in which the parish concerned is situated;
- (c) the parochial church council;
- (d) the local planning authority for the area in which the church or place of worship is situated;
- (e) any national amenity society;
- (f) any other body designated by the chancellor for the purpose of the petition; and
- (g) any other person or body appearing to the chancellor to have a sufficient interest in the subject matter of the petition.

(3) Following receipt of a letter of objection from an interested person (whether as to all or some of the works or proposals) the registrar shall after the end of the period of display of the public notice inform the objector in writing that he may:

- (a) leave the chancellor to take the letter of objection into account in reaching a decision without the objector becoming a party in the proceedings, in which case a copy of the letter of objection will be sent to the petitioners to allow them to comment on it before the chancellor reaches a decision, or
- (b) send or deliver to the registrar formal written particulars of objection in Form No. 4 in Appendix C and thereupon become a party in the proceedings.

(4) The registrar shall in addition

- (i) inform the interested person that unless he chooses alternative (b) in paragraph (3) above, he will not be entitled to be heard at any hearing of the matter in open court in the consistory court which the chancellor may decide to hold, nor to make written representations if the proceedings are to be dealt with under rule 26, nor will he be a party to the proceedings for the purpose of

any order for costs which may be made by the chancellor under section 60 of the Ecclesiastical Jurisdiction Measure 1963;

- (ii) inform the interested person that if he chooses alternative (b) in paragraph (3) above he will be entitled to participate in the proceedings at a hearing in the consistory court or in any disposal of the proceedings under rule 26 and that he will be a party to the proceedings for the purpose of any order for costs which may be made by the chancellor under section 60 of the Ecclesiastical Jurisdiction Measure 1963, and shall send him a brief statement in terms approved by the chancellor as to the principles which apply to costs in the consistory court; and
- (iii) provide the interested person with a copy of Form No. 4 notifying him that if he chooses alternative (b) in paragraph 3 above he must send or deliver his completed Form No. 4 to arrive at the registry within 21 days of receipt of the letter of notification and form from the registrar and also serve a copy of his completed Form No. 4 on the petitioners within the same period of 21 days at such address as the registrar may direct, and
- (iv) further inform the interested person that if no response and no Form No. 4 is received by the registrar within the period of 21 days as required by sub-paragraph (iii) above, he will be treated as having chosen the alternative course of action in paragraph (3)(a) and the matter will proceed accordingly.

(5) Where any person has taken the course of action in paragraph (3)(a), or is to be treated as having done so under paragraph (4)(iv), then the registrar shall, after the expiry of the period of 21 days

- (a) forward a copy of any letter of objection to the petitioners for comment by them within 7 days, and
- (b) not later than 7 days after expiry of the last date for comment, forward to the chancellor a copy of any letter of objection received under paragraph (1) above, together with any comments received from the petitioners.

(6) On receipt of any letters or comments forwarded by the registrar under paragraph (5), the chancellor shall take them into account in reaching a decision on the petition, or in giving any directions in the proceedings.

Unopposed Petition

17. In a case where either no letter of objection has been received under rule 16 or, if such letter of objection has been received, no particulars of objection have been submitted within the time allowed by rule 16(4)(iii), or where the chancellor is satisfied that all the parties concerned consent to the grant of a faculty, the chancellor may, subject to the production of any relevant evidence, and subject to the requirements of section 17 of the Measure, grant the faculty.

Further pleadings

18. Where particulars of objection have been submitted to the registry the petitioners may, and if ordered to do so shall, submit to the registry a written answer thereto within 21 days of the submitting of those particulars and shall serve a copy of the answer on each of the other parties.

Directions

19.—(1) In any case the chancellor may give directions in writing without a hearing or may hold a hearing for directions which the parties or their representatives (whether or not legally qualified) and such other persons as the chancellor deems fit will be requested to attend. The chancellor or the registrar (if authorised by the chancellor) shall preside at any hearing for directions.

- (2) The purposes of the giving of directions are:

- (i) to encourage the parties to co-operate with each other in the exchange of information and documents in preparation for a hearing;
 - (ii) to fix timetables or otherwise control the progress of the proceedings;
 - (iii) to identify the issues which will need to be resolved at a hearing;
 - (iv) to deal with as many aspects of the matter as possible on the same occasion;
 - (v) to give directions to ensure that the petition is considered and determined as quickly and efficiently as possible.
- (3) Having regard to paragraph (2) above the chancellor or the registrar shall direct as appropriate:
- (i) how any evidence may be presented, whether by written statement or report followed by oral evidence at the hearing, or otherwise;
 - (ii) where there is a large number of objections making a similar point or points in the written objections that a specified number of them shall represent the interest of all those objectors at the hearing and may appear by themselves or by representatives (whether or not legally qualified);
 - (iii) that there be an exchange of the reports of expert witnesses to be called by the parties and that they be requested to identify matters upon which they agree and those upon which they disagree;
 - (iv) that the number of expert witnesses to be called on behalf of any party be limited to such number as the chancellor or registrar deems appropriate in the case in question;
 - (v) that any reports provided to the chancellor by the advisory committee, the Council for the Care of Churches, English Heritage, any national amenity society or any local planning authority or other body shall be copied to the parties not less than 21 days before the date of the hearing.
- (4) In deciding whether and how to exercise the powers under this rule, the chancellor or registrar shall have regard to all the circumstances including:
- (a) the justice of the case;
 - (b) the desirability of minimising dispute;
 - (c) saving unnecessary expense;
 - (d) avoiding delay;
 - (e) the number of objectors and the grounds of objection to the proposals.

Time and Place of Hearing

20.—(1) Within the period of 28 days after expiry of the last date of compliance with any directions given under rule 19 above or, where the case is one to which section 17(4)(d) of the Measure applies, the registrar shall lay all the documents submitted to the registry before the chancellor who shall give directions as to a time and place for the hearing of the case.

(2) In addition to notifying the parties the registrar shall send to the archdeacon, the Council, the advisory committee, and any other body which has given advice to the chancellor, written notice of the time and place of the hearing.

Evidence

21.—(1) The evidence at the hearing of any proceedings for a faculty shall be given orally save that the chancellor upon application by a party or the court of its own motion may by order direct:

- (a) that all or any part of the evidence may be given before an examiner appointed by the chancellor or by affidavit, or

(b) subject to paragraphs (2) and (3) below, that a written statement may be given in evidence without the attendance of the maker of the statement.

(2) An application to submit a written statement in evidence at the hearing may be made by or on behalf of any person who is not a party to the proceedings and the chancellor may give leave for a written statement to be admitted in evidence without the attendance of the maker of the statement provided that a copy of the written statement is submitted to the registry and that a copy is delivered by that person to the parties not less than 21 days before the date of the hearing.

(3) Notwithstanding anything in paragraph (1) above, the chancellor shall be entitled on receiving a copy of a written statement to require the attendance at the hearing of the maker of the statement for cross-examination by the parties, and if any party on receiving a copy of the statement applies to the chancellor for an order requiring the attendance of the maker of the statement at the hearing for cross-examination, the chancellor may make an order accordingly, and in the event of the failure of the maker of the statement to attend the hearing when required to do so under this paragraph, his written statement shall not be admitted in evidence save in exceptional circumstances with the leave of the chancellor.

Petition for Partial Demolition or Demolition

22. An application to give evidence made by a member of the Council for the Care of Churches or other person by virtue of section 17(4)(d) of the Measure shall be made to the registrar and shall

- (a) if made by a member of the Council or a person authorised by the Council, be in Form No. 10 in Appendix C and be submitted to the diocesan registry not more than six weeks after the Council has received notice in writing of the petition under section 17(4)(b) of the Measure;
- (b) if made by any other persons, be in Form No. 11 in Appendix C and be submitted to the registry not more than four weeks after the date of the last publication in accordance with rule 13(7) of the notice stating the substance of the petition;
- (c) be accompanied in either case (a) or (b) with a statement of the evidence to be relied upon.

Evidence of Council for the Care of the Churches

23. In any case not falling under rule 22 an application to give evidence may be made by a member of the Council for the Care of Churches or other person authorised by the Council to the registrar in Form No. 10 in Appendix C and be submitted to the diocesan registry not less than 21 days before the hearing and shall be accompanied by a statement of the evidence to be relied upon.

English Heritage

24. In any case where English Heritage has been specially notified pursuant to rule 13(3) or in any other case an application to give evidence may be made by English Heritage to the registrar in Form No. 10 in Appendix C and be submitted to the diocesan registry not less than 21 days before the hearing and shall be accompanied by a statement of the evidence to be relied upon.

Judge's Witness

25.—(1) The chancellor may direct the attendance of a member of the advisory committee, the Council for the Care of Churches or any other person to give evidence at the hearing of any petition for a faculty, if it appears to the chancellor that the person directed to attend may be able to give relevant evidence and is willing to give it.

(2) Where any person has applied in accordance with rule 22, 23 or 24 or has been directed under paragraph (1) to give evidence in proceedings for a faculty, the registrar shall give to the parties to

the proceedings not less than 14 days' notice in writing that the evidence is to be given and of the name and address of the proposed witness and, in the case of a witness directed under paragraph (1) of this rule, of the nature of the evidence required of him.

(3) Evidence given by any such person as is referred to in paragraph (2) of this rule shall be subject to cross-examination by the party or parties to the proceedings and any such witness may be permitted to ask questions of the party or parties with the leave of the chancellor.

Disposal of Proceedings by Written Representation

26.—(1) If the chancellor considers it expedient to do so and is satisfied that all the parties to the proceedings have agreed in writing, then the chancellor may order that the proceedings shall be determined upon consideration of written representations instead of by a hearing in court provided that no such order may be made in any case in which the chancellor is required to hear evidence in open court for the purposes of section 17(2) or 3(a) by virtue of section 17(4) of the Measure

(2) Where an order has been made by the chancellor under paragraph (1) above the registrar shall give notice

- (a) that the petitioners shall submit to the registry and serve on each of the other parties within 21 days of the direction a written statement in support of their case including the documentary or other evidence upon which they wish to rely;
- (b) that each of the other parties shall not more than 21 days after the submitting of the petitioners' statement submit to the registry and serve on the petitioners a written statement in reply to the petitioners' statement and in support of his case including any documentary or other evidence upon which he wishes to rely;
- (c) that the petitioners may not more than 14 days after the submitting of the statement of an opposing party submit to the registry and serve on such opposing party a written statement in response.

(3) If any party does not comply with any such direction, the chancellor may declare him to be in default and may proceed to dispose of the case without any further reference to such party.

(4) Any party against whom an order declaring him to be in default is made may at any time apply to the court to revoke that order, and the chancellor may as a matter of discretion revoke the order on such terms as to costs or otherwise as may be just.

(5) Notwithstanding the existence of an order that the proceedings shall be dealt with by written representations, the chancellor may at any stage revoke the order and direct that the proceedings shall be determined at an oral hearing and the chancellor shall thereupon give directions for the future conduct of the proceedings.

(6) The chancellor may, whether or not an application is made to the court by any party, inspect the church or any article or thing the subject of the petition or concerning which any question arises in the proceedings.

(7) If no order has been made under paragraph (5), the chancellor shall determine the proceedings upon the pleadings and the written statements and evidence submitted under this rule, and the chancellor's decision shall be as valid and binding on all parties as if it had been made after an oral hearing.

(8) The chancellor or the registrar (if so authorised by the chancellor) may give such other directions as appear just and convenient for the expeditious dispatch of proceedings under this rule.

Issue of Faculty after opposed proceedings

27. If the chancellor decides to grant a faculty following either an oral hearing or a determination on the basis of written representations under rule 26 the registrar shall issue a faculty in Form No. 5

in Appendix C adapted to meet the circumstances of the case and shall issue a certificate in Form No. 6 in Appendix C to be completed in accordance with the requirement in the faculty.

PART V

MISCELLANEOUS AND GENERAL

Appointment of person to act for Archdeacon

28.—(1) In making an appointment under section 16(3) of the Measure of a person to act in place of an archdeacon on the ground of incapacity, the bishop may act on such evidence of the incapacity of the archdeacon as he shall think sufficient, and a statement of the fact of the incapacity in the instrument of appointment shall be conclusive.

(2) An instrument of appointment under section 16(3) shall be in Form No. 12 in Appendix C.

Removal of article to place of safety

29.—(1) In any case where an archdeacon is of the opinion that an article falling within section 21(1) of the Measure should be removed to a place of safety immediately the archdeacon may make an order in Form No. 13 in Appendix C.

(2) In any case not requiring an immediate order under paragraph (1) of this rule, an archdeacon shall not make an order under section 21 of the Measure unless and until

(a) the churchwardens and any other person having custody of the article and the parochial church council and the advisory committee have been notified by Form No. 14 in Appendix C of the facts as they appear to the archdeacon and that written representations made by any of them will be considered if made before the date specified in the notice being not less than 28 days after the service of the notice, and

(b) any representations duly made under sub-paragraph (a) have been considered.

(3) Subject to fulfilling the requirements of paragraph (2) of this rule in any case falling within that paragraph the archdeacon may make an order in Form No 15 in Appendix C.

Appointment of person to sit as clerk of the court in place of the registrar

30. If the chancellor by whom any proceedings for a faculty are to be heard is of opinion that by reason of the fact that the registrar has acted for any of the parties or has otherwise been personally connected with the proceedings the registrar ought not to sit as clerk of the court at the hearing, another practising solicitor or diocesan registrar shall be appointed by the chancellor to sit as such clerk in place of the registrar.

Service of Document

31.—(1) Service of any document may be effected—

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

(b) by sending it by post to that address, or

(c) by leaving it at a document exchange as provided for in paragraph (3) of this rule; or

(d) by FAX as provided for in paragraph (4) of this rule; or

(e) in such other manner (including electronic means) as the chancellor or registrar may direct.

(2) For the purpose of this rule, and of the Interpretation Act 1978 in its application to this rule, the proper address of any person on whom a document is to be served under this rule shall be—

- (a) his usual or last known address, or
 - (b) the business address of the solicitor (if any) who is acting for him in the proceedings.
- (3) Where—
- (a) the proper address for service includes a numbered box at a document exchange; or
 - (b) there is inscribed on the writing paper of the party on whom the document is served (where such party acts in person) or on the writing paper of his solicitor (where such party acts by solicitor) a document exchange box number, and such a party or his solicitor (as the case may be) has not indicated in writing to the party serving the document that he is unwilling to accept service through a document exchange,

service of the document may be effected by leaving the document addressed to that numbered box at that document exchange or at a document exchange which transmits documents every business day to that document exchange; and any document which is left at a document exchange in accordance with this paragraph shall, unless the contrary is proved, be deemed to have been served on the second business day following the day on which it is left.

- (4) Service by FAX may be effected where
- (a) the party serving the document acts by a solicitor;
 - (b) the party on whom the document is served acts by a solicitor and service is effected by transmission to the business address of such a solicitor; and
 - (c) the solicitor acting for the party on whom the document is served has indicated in writing to the solicitor serving the document that he is willing to accept service by FAX at a specified FAX number and the document is transmitted to that number and for this purpose the inscription of a FAX number on the writing paper of a solicitor shall be deemed to indicate that such a solicitor is willing to accept service by FAX unless he has indicated in writing that he is not prepared to do so.

(5) Any document required by these Rules to be submitted to the diocesan registry may be delivered at the registry, or sent by post properly addressed to the registrar at the registry.

General Provisions

32.—(1) Where anything is required by these Rules to be done not more than a specified number of days or weeks after a specified act or event, the day on which the act or event occurred shall not be counted.

(2) The registrar or chancellor, on an application made by the person concerned, or the court of its own motion, may extend the time within which anything is required to be done by these Rules, and the application may be made although the time has expired.

(3) The registrar or chancellor may exercise the power under paragraph (2) on an application made without notice to any other party, or may give directions for the giving of notice of the application and for a hearing.

(4) Any such application may be granted on such terms as the registrar or chancellor thinks just.

(5) The registrar or chancellor may give leave to any party to amend any pleading at any stage in the proceedings on such terms as are just and in the case of an amended petition such further public notice may be directed as the registrar or chancellor considers necessary having regard to the circumstances of the case.

Non-Compliance and Setting Aside

33.—(1) Non-compliance with any of these Rules shall not render any proceeding void unless the chancellor 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 chancellor thinks fit.

(2) Whenever it appears to the chancellor that it is just and expedient to do so the chancellor may order that a faculty be—

- (a) set aside, or
- (b) amended, provided that the amendment will not constitute a substantial change in the works or proposals already authorised by the faculty.

Procedural Questions

34. Where, in the exercise of the faculty jurisdiction, any procedural question or issue arises, or it is expedient that any procedural direction shall be given in order that the proceedings may expeditiously and justly be disposed of, and where no provision of these Rules appears to the chancellor to be applicable, the chancellor shall resolve such question or issue, or shall give such directions as shall appear to be just and convenient, and in doing so shall be guided, so far as practicable, by the Civil Procedure Rules for the time being in force.

Adjournment of hearing

35. The chancellor may adjourn the hearing of any proceedings or application from time to time on such terms as the chancellor considers just.

Departure from Forms in Appendix C

36.—(1) Where any of these Rules (other than rules 3(4) and (5), 4(1) and (4) and 6(1) and (6)) require a document to be in a form set out in Appendix C, and that form is not in all respects appropriate, the Rules shall be construed as requiring a form of the like character, with such variations as circumstances may require, to be used.

(2) The chancellor may approve and direct forms to be used where a faculty is sought for exhumation or reservation of a grave space or in relation to any memorial in a churchyard or consecrated burial ground or in any other appropriate case except where any of these Rules (other than rule 4(1)) require a document to be in a form set out in Appendix C.

Application

37. These Rules shall not apply to any building, curtilage, object or structure which is subject to the faculty jurisdiction by virtue of section 3(2) of the Care of Places of Worship Measure 1999⁽⁴⁾ and to which the Faculty Jurisdiction (Care of Places of Worship) Rules 2000⁽⁵⁾ apply.

Transitional Provisions

38. Nothing in these Rules shall affect any faculty proceedings which were instituted before the coming into force of these Rules and were subject to the Faculty Jurisdiction Rules 1992, and the Faculty Jurisdiction Rules 1992 shall continue to apply in relation to any such proceedings as if these Rules had not been made.

(4) 1999 No. 2.

(5) S.I. 2000/2048.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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Dated this eighth day of June 2000

Approved by the General Synod this 10th day of July 2000

David Williams
Clerk to the Synod