
STATUTORY INSTRUMENTS

1992 No. 2882

Faculty Jurisdiction Rules 1992

**PART I
PRELIMINARY**

Citation, Commencement and Revocation

1.—(1) These Rules may be cited as the Faculty Jurisdiction Rules 1992 and shall come into force on the first day of March 1993.

(2) The Faculty Jurisdiction Rules 1967⁽¹⁾, the Faculty Jurisdiction (Amendment) Rules 1987⁽²⁾ and the Faculty Jurisdiction (Amendment) Rules 1989⁽³⁾ are hereby revoked.

Interpretation

2.—(1) In these Rules

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

“The archdeacon” means the archdeacon of every 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⁽⁴⁾ 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;

“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;

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

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

(1) [SI 1967/1002](#)
(2) [SI 1987/2266](#)
(3) [SI 1989/1243](#)
(4) [1964 No 5](#)

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

“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 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.

(2) The Interpretation Act 1978(5) 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 CITATION

Seeking Advisory Committee Advice and Lodging Petition

3.—(1) Before lodging a petition for a faculty in the consistory court intending applicants should seek the advice of the advisory committee in respect of the proposed works or purposes for which a faculty is required (except where the action proposed relates exclusively to exhumation or the reservation of a grave space) and should submit to the advisory committee all necessary designs, plans or other documents giving particulars of the proposed works or purposes together with a summary list of the works proposed.

(2) If the advisory committee decide to recommend the works or purposes or to raise no objection to them their decision together with any provisos attached thereto shall be set out in a certificate in Form No. 1 in Appendix B and shall be sent to the intending applicants together with the designs, plans and other documents submitted to the advisory committee under rule 3.

(3) If the advisory committee decide not to recommend the works or purposes they shall inform the intending applicants by way of a certificate in Form No. 1 in Appendix B 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.

(4) As soon as they have received the advice of the advisory committee under paragraph (2) or (3) above the applicants may lodge at the diocesan registry a petition for a faculty in Form No 2 in Appendix B in respect of the works or purposes and

- (a) the works or purposes 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 B under paragraph (2) or (3), and
- (b) any necessary designs, plans or other documents giving particulars of the works or purposes for which the faculty is required, together with the said certificate of the advisory committee relating to those documents, shall be lodged with the petition.

(5) Notwithstanding that any of the requirements of paragraphs(1) to (4) of this Rule have not been complied with a petition may at any time be lodged at the diocesan registry and every petition shall (subject to rule 33) be in Form No 2 in Appendix B.

Petition for partial demolition or demolition

4. —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 B and shall also state which of the grounds specified in section 17 of the Measure are relied on, and shall give full particulars of those grounds and of the circumstances giving rise to the petition and of the arrangements proposed to be made to meet the situation arising from the partial demolition or demolition of the church, including arrangements for the disposal of the fittings and contents of the church, and shall give information on any other matters on which the court should be informed.

General Citation

5.—(1) As soon as a petitioner is ready to lodge a petition for a faculty the petitioner shall fill in the general citation in Form No 3 in Appendix B (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 purposes in the citation 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 general citation, and he should do so in respect of citation where the petition relates to a matter which is not within Appendix A.

(3) As soon as a petitioner has filled in the citation

- (a) he shall immediately lodge in the registry the petition and the documents required by rule 3(4)(b) and a copy of the completed citation;
- (b) he shall immediately display the citation in accordance with paragraph (4) below save that if he is not the minister, or a churchwarden he shall send the citation to the registrar for his directions.

(4) Subject to paragraph (3)(b) above and rule 12(4) a copy of the citation shall be displayed for a continuous period of not less than fourteen days including at least one Sunday when the church is used for worship.

- (a) in the case of a petition relating to a parish church or its churchyard—
 - (i) inside the church on a notice board or in some other prominent position, and
 - (ii) on a notice board outside that church,
- (b) 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—
 - (i) on a notice board or in some other prominent position inside that church or place of worship and inside the parish church or parish churches in the parish concerned, and
 - (ii) on a notice board outside the church or place of worship to which the application relates and outside the parish church or parish churches in the parish concerned.

and if there is no notice board within the grounds of any building mentioned in sub-paragraph (a)(ii) or (b)(ii) above, the notice required to be displayed outside that building under those sub-paragraphs shall be displayed on the outside of or near to the principal door of that building and in some other prominent position readily visible to the public.

(5) If on receipt of the petition and copy citation the registrar considers that

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

- (c) a copy of the citation 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 citation should be displayed for a longer period than is provided for in paragraph (4) of this rule

he may give such directions to the petitioners as he thinks fit.

(6) Upon the expiry of the period of general citation required under paragraph (4) or such longer period as may be directed under paragraph (5)(d) of this rule the citation or a copy thereof shall be returned to the registrar by the petitioners with the certificate of execution duly completed thereon in accordance with Form No 3 in Appendix B.

PART III

MATTERS WITHIN THE ARCHDEACON'S JURISDICTION

Allocation to the Archdeacon

6.—(1) Where a petition for a faculty for any of the works or purposes specified in Appendix A to these Rules (not being works falling within rule 12(3)) is unopposed and the advisory committee recommends the works or purposes in question or raises no objection to them an archdeacon may exercise the jurisdiction of the consistory court of the diocese in respect of every such cause of faculty arising in his archdeaconry to the extent provided in the said Appendix.

(2) If the registrar is satisfied that the subject matter of the petition falls within the jurisdiction conferred upon an archdeacon under paragraph (1) above he shall endorse the petition accordingly and send it to the archdeacon for his consideration.

(3) An archdeacon shall not make a final determination in any cause of faculty within his jurisdiction until he has sought the advice of the advisory committee in respect of the works or purposes the subject of the petition, provided that where the advisory committee supplied a certificate in Form No 1 under rule 3(2) above in respect of the same works or purposes not more than 12 months prior to the lodging of the petition the advisory committee may, if appropriate, confirm that they do not wish to alter the said certificate.

(4) If an archdeacon decides to grant a faculty he 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 15 and provided the petition is unopposed shall issue

- (a) the faculty in Form No 5 in Appendix B, and
- (b) a certificate in Form No 6 in Appendix B 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 him.

Referral from the Archdeacon to the Chancellor

- 7.—(1) An archdeacon shall decline to exercise jurisdiction in a cause of faculty where
- (a) he is the minister of the parish to which the petition relates, or

(b) he has been personally involved with the petitioners in relation to the subject matter of the petition or otherwise to such an extent that he deems it inappropriate to act in the matter in which event he shall inform the registrar prior to the allocation of the petition to him, or if this is not practicable he 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 to exercise his jurisdiction in any cause of faculty and may in respect of a petition otherwise falling within his 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 he 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 lodged he shall inform the registrar who shall immediately refer the matter to the chancellor to be dealt with by him and the chancellor may give such licence or other directions in respect of the said matter on such terms or conditions as he thinks fit.

Temporary Re-ordering

8.—(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 B for a temporary period not exceeding 12 months for a scheme of re-ordering provided he 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 he approves, and can easily be reinstated.

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

(3) A copy of any such licence shall be lodged with the registrar and with 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 lodged in the registry not later than two months before the expiry of the said 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 he shall advise the minister that he may apply to the chancellor for an interim faculty authorising the scheme.

Referral by the Registrar to the Chancellor

9.—(1) Notwithstanding anything in rule 6(1) the registrar shall refer the petition to the chancellor when he considers that

- (a) a confirmatory faculty is required, or
- (b) the proposed works or purposes 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 cited, or
- (d) there is uncertainty whether the subject matter of the petition falls within the jurisdiction conferred on the archdeacon by rule 6(1), or
- (e) the advisory committee has not recommended the works or purposes and has so certified by paragraph 4 of Form No 1 in Appendix B, 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 6(1) he 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 to be dealt with by him 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 7(1) or (2), or 9(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 6(2) as if the petition had been presented to the chancellor from the commencement of proceedings.

Register of Petitions

10. 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 B and the secretary shall enter the details in the register of petitions maintained by him.

PART IV

MATTERS WITHIN THE CHANCELLOR'S JURISDICTION

Matters for Chancellor

11.—(1) Save as 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 33) be in Form No 5 in Appendix B.

Requirements as to Notice of Petition

12.—(1) If the chancellor directs or the law otherwise requires any person to be specially cited the registrar shall serve on him a copy of the citation.

(2) The chancellor if he thinks fit may order that notice of the citation be published in such newspapers or other publications as he directs and in such form as he directs.

(3) Without prejudice to the generality of rule 12(1), where it appears to the chancellor that the works for which a faculty is sought

- (a) involve alteration to or extension of a church, which is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990, to such an extent as is likely to affect its character as a building of special architectural or historic interest, or

- (b) 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, if it appears to him that any of the following bodies has not previously been notified of the works, the chancellor shall direct that English Heritage, the local planning authority and any national amenity society as he deems fit shall be specially cited.

- (a) (4) (a) In any case falling within paragraph (3) of this rule the chancellor shall direct that the general citation required by rule 5 shall be displayed in a prominent position outside the church visible to the general public for a period of 28 days;
- (b) in any case falling within paragraph (3)(a) or (3)(c) of this rule the chancellor shall direct that a notice stating the substance of the petition shall be published in a newspaper circulating in the locality within such period as the chancellor shall direct or, if no period is directed, within fourteen days of the giving of the direction.

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

(6) Where a body has been specially cited 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 citation within which to send to the registry and the petitioners a written notice of objection containing the information required by Form No 3 in Appendix B 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

- (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 3 in Appendix B 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 four weeks after the petition was lodged at 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 fourteen 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 general citation or amended citation then subject to paragraph (9) below the registrar shall complete the citation and give such directions for display of citation under rule 5(5)(b) to (d) as he thinks fit or as the chancellor has directed.

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

- (a) if he 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, he may dispense with the issue of a citation and decree the issue of the faculty forthwith;

- (b) in any other case he may dispense with general citation and may direct that any of the persons referred to in sub-paragraph (a) above who are not the petitioners shall be specially cited.

Advice of Advisory Committee

13. Save where a petition relates exclusively to exhumation or reservation of a grave space or he 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 until he has sought the advice of the advisory committee in respect of the works or purposes the subject of the petition, provided that where the advisory committee supplied a certificate in Form No 1 under rule 3(2) in respect of the same works or purposes not more than 12 months prior to the lodging of the petition the advisory committee may, if appropriate, confirm that they do not wish to alter the said certificate.

Matters of Historic or Artistic Interest

14.—(1) Where the chancellor is of the opinion that any petition for a faculty concerns or involves or might concern or involve an article or matter of historic or artistic interest he shall direct the registrar to serve on the Council for the Care of Churches notice in Form No 9 in Appendix B together with a copy of the petition and of the accompanying documents which were lodged in the diocesan registry under rule 3(4).

(2) In this rule "article" may include not only an ornament or moveable object but also a part of a building, any thing affixed to land or a building and any part of an article.

Objections to Petition

15.—(1) Any interested person who wishes to object to a proposed faculty being granted shall at any time during the period of fourteen days citation required by rule 5(4) or such longer period as may be directed under rule 5(5)(d) or within seven days after the expiry of either of the said periods send to the registry and to the petitioners a written notice of objection containing the information required by Form No 3 in Appendix B and he shall thereupon be treated as a party opponent for all purposes including any order for costs which may be made by the chancellor pursuant to section 60 of the Ecclesiastical Jurisdiction Measure 1963.

(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 lawful interest in the subject matter of the petition.

(3) Where any interested person has given notice of objection, the registrar shall direct him to lodge at the registry written Particulars of Objection setting out in detail the grounds of his objection on Form No 4 in Appendix B and shall require him to serve a copy of his Particulars of Objection on the petitioners not more than twenty-one days from the date of the registrar's direction at the address

for service given by the petitioners in the general citation in Form No 3 or such other address as the registrar may direct.

Unopposed Petition

16. In a case where either no notice of objection has been given under rule 15 above or, if such notice of objection has been given, no Particulars of Objection have been lodged within the time allowed, 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 such evidence (if any) as he may require, and subject to the requirements of section 17 of the Measure, grant the faculty.

Further pleadings

17.—(1) Where Particulars of Objection have been lodged at the registry the petitioners may and if ordered to do so shall not more than twenty one days after the lodging of those Particulars lodge at the registry an Answer thereto and shall serve a copy thereof on each of the parties opponent.

(2) If any party objects to any pleading of an opposing party, or to any part of any such pleading as being irrelevant or bad in law he may, not more than fourteen days after it has been sent to him, lodge at the registry a notice in writing setting out his reasons for objecting thereto and he shall at the same time serve a copy of the said notice on each of the parties opponent; and a party whose pleading is so objected to may not more than fourteen days after the lodging of the said notice lodge in the registry and serve on the opposing party an amended pleading.

(3) Where objection has been taken to any pleading (including an amended pleading) under the last foregoing paragraph and no amended pleading has been lodged in respect of that objection within the time allowed the registrar shall lay the pleading before the chancellor, who shall either appoint a day to decide as a preliminary issue the matters raised by the objection or reserve them for decision at the general hearing of the case.

Directions

18. If any issue raised by the pleading remains outstanding after the pleadings are closed the chancellor or the registrar if authorised by the chancellor shall give such directions to the parties as he may think fit in relation to discovery of documents, the number of expert witnesses to be called on behalf of any party, the exchange of reports of expert witnesses and any other matter which he considers will facilitate the hearing of the case.

Time and Place of Hearing

19.—(1) Where the period of twenty eight days from the time given for compliance with any directions given under rule 18 above has expired or where the case is one to which section 17(4) (d) of the Measure applies, the registrar shall lay all the documents lodged at 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 and, if it has given advice the advisory committee, written notice of the time and place of the hearing.

Evidence

20.—(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 of his own motion may by order direct;

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

(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, if he thinks fit, 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 lodged at the registry and that a copy is delivered by that person to the parties not less than twenty-one 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 demolition

21. 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 B and be lodged at 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 B and be lodged at the registry not more than four weeks after the date of the last publication in accordance with rule 12(7) of the notice stating the substance of the petition.

Council for the Care of the Churches

22.—(1) Where notice of a petition has been served on the Council for the Care of Churches under rule 14(1)—

- (a) a report by the Council on the matter to which the petition relates may be made and sent to the chancellor within six weeks from the date on which the Council received notice of the petition; or
- (b) an application to give evidence in the proceedings may be made by a member of the Council or a person authorised by the Council, and any such application shall be in Form No 10 in Appendix B and shall be lodged at the diocesan registry not more than six weeks after the said date.

(2) In any case not falling under rule 21 or paragraph 1 of this rule 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 B and be lodged at the diocesan registry not less than fourteen days before the hearing.

(3) The substance of any report made to the chancellor by the Council for the Care of Churches under paragraph (1) of this rule shall be disclosed to the parties to the proceedings not less than seven days before the date of the hearing.

English Heritage

23. In any case where English Heritage has been specially cited pursuant to rule 12(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 B and be lodged at the diocesan registry not less than fourteen days before the hearing.

Judge's Witness

24.—(1) The chancellor may of his own motion direct the summoning 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 he considers that the person summoned may be able to give relevant evidence and is willing to give it.

(2) Where any person has applied in accordance with rule 21, 22 or 23 or has been summoned under paragraph (1) to give evidence in proceedings for a faculty, the registrar shall give to the parties to the proceedings not less than seven clear 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 summoned 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

25.—(1) Except in any case in which the chancellor is required to hear evidence in open court under section 17(4) of the Measure, the chancellor, if he considers it expedient to do so and is satisfied that all the parties to the proceedings have agreed in writing, may order that the proceedings shall be determined upon consideration of written representations instead of by a hearing in court.

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

- (a) that the petitioners shall lodge at the registry and serve on each of the parties opponent within twenty-one 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 parties opponent shall not more than twenty-one days after the lodging of the petitioners' statement lodge at 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 fourteen days after the lodging of the statement of an opposing party lodge at the registry and serve on such opposing party a written statement in response thereto.

(3) If any party does not comply with any such direction, the chancellor may declare him to be in default and may thereafter 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 in his 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 proceeding shall be dealt with by written representations, the chancellor may if he thinks fit at any stage revoke the order and direct that the proceedings shall be determined at an oral hearing and he shall thereupon give directions for the future conduct of the proceedings.

(6) 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 to him under this rule, and his decision thereon shall be as valid and binding on all parties as if it had been made after an oral hearing.

(7) The chancellor or the registrar (if so authorised by the chancellor) may give such other directions as to him appear just and convenient for the expeditions despatch of proceedings under this rule.

PART V

MISCELLANEOUS AND GENERAL

Appointment of person to act for Archdeacon

26.—(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 his 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 B.

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

27. 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 he ought not to sit as clerk of the court at the hearing, he shall appoint another practising solicitor to sit as such clerk in place of the registrar.

Service of Document

28.—(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) in such other manner 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) Any document required by these Rules to be lodged at the diocesan registry may be lodged by delivering the document at the registry, or by sending it by post properly addressed to the registrar at the registry.

General Provisions

29.—(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 may, on an application made by the person concerned, extend the time within which anything is required to be done by these Rules, and the application may be made notwithstanding that the time has expired.

(3) The registrar or chancellor may exercise the power under paragraph (2) on an ex parte application, or may give directions for the giving of notice thereof 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 he deems just and in the case of an amended petition he may direct such further citation as he considers necessary.

Non-Compliance and Setting Aside

30.—(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) The chancellor may amend or set aside a faculty whenever he is satisfied that it is just and expedient to do so.

Procedural Questions

31. 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 him to be just and convenient, and in doing so he shall be guided, so far as practicable, by the Rules of the Supreme Court for the time being in force.

Adjournment of hearing

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

Departure from Forms in Appendix B

33.—(1) Where any of these Rules require a document to be in a form set out in Appendix B, 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 direct such forms as he thinks fit to be used where a faculty is sought for exhumation or reservation of a grave space and, save where any of these Rules require a document to be in a form set out in Appendix B, in any other case in respect of any stage of the proceedings for a faculty.

*Sheila Cameron
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Dated this fourteenth day of October 1992

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

Approved by the General Synod this tenth day of November 1992

Philip Mawer
Secretary General