
STATUTORY INSTRUMENTS

2000 No. 2048

The Faculty Jurisdiction (Care of Places of Worship) Rules 2000

PART V

MISCELLANEOUS AND GENERAL

Corporate or Unincorporated Bodies

28. For the purpose of rule 4 or any stage in proceedings for a faculty, one or more duly authorised members or officers may act on behalf of a corporate body or an unincorporated body of persons.

Appointment of person to act for Archdeacon

29.—(1) In making an appointment under section 16(3) of the 1991 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 11 in Appendix C.

Appointment of Person to sit as clerk of the court in place of 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 4(4) and (5), 5, and 7(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 or in any other appropriate case, except where any of these Rules (other than Rule 5(1)) require a document to be in a form set out in Appendix C.

Injunctions and Restoration Orders

37. The Faculty Jurisdiction (Injunctions and Restoration Orders) Rules 1992 shall apply with the necessary modifications in relation to a building as they apply in relation to a church as defined by Rule 2(1) of those Rules.