



Ecclesiastical Jurisdiction and Care of Churches Measure 2018

2018 No. 3

PART 3

CARE OF CHURCHES ETC.

The list of places of worship

38 The list

- (1) The Church Buildings Council must continue to maintain the list (“the list”) which it was maintaining under section 1 of the Care of Places of Worship Measure 1999 immediately before the commencement of this section, being a list of eligible buildings which are, as a result of their inclusion in the list, subject to the faculty jurisdiction.
- (2) A building is eligible for inclusion in the list if (subject to subsection (3))—
 - (a) it is subject to any peculiar jurisdiction and is used for worship according to the rites and ceremonies of the Church of England;
 - (b) it is a chapel forming part of an episcopal house of residence;
 - (c) it is a chapel or other place of worship owned or leased by or held in trust for a religious community;
 - (d) it does not come within paragraph (a), (b) or (c) but is part of a university, college, school, hospital, Inn of Court, almshouse or other public or charitable institution and is primarily used—
 - (i) for worship according to the rites and ceremonies of the Church of England, or
 - (ii) for joint worship by members of the Church of England and one or more other Churches;
 - (e) it is subject to a sharing agreement made on behalf of the Church of England in pursuance of the Sharing of Church Buildings Act 1969 and is used for worship.

Changes to legislation: There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, Cross Heading: The list of places of worship. (See end of Document for details)

- (3) But a building is not eligible for inclusion in the list if—
- (a) the Care of Cathedrals Measure 2011 applies to it,
 - (b) it is subject to the faculty jurisdiction of a consistory court, or
 - (c) it comes within Article 7(1)(a) to (d) of the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) (England) Order 2010 (ecclesiastical exemption: buildings used by other Churches).
- (4) In this section and sections 39 to 44—
- “building” does not include plant or machinery in the building;
- “episcopal house of residence” has the same meaning as in section 3 of the Episcopal Endowments and Stipends Measure 1943.
- [^{F1}“religious community” has the same meaning as in the Canons (see Canon DA 1).]

Textual Amendments

- F1** Words in s. 38(4) inserted (14.7.2021) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), ss. 1(5), 16(3); S.I. 2021/545, art. 2

Commencement Information

- I1** S. 38 in force at 1.9.2018 by S.I. 2018/720, art. 2

39 Application for inclusion in the list

- (1) On an application for the inclusion of a building in the list, an application may also be made for the inclusion in the list of an adjoining building which is used wholly or mainly as a vestry or sacristy.
- (2) On an application for the inclusion in the list of a building within section 38(2)(a) (peculiar) or (2)(e) (shared church) which is detached from any other building, an application may also be made for the inclusion in the list of—
- (a) the curtilage of the building,
 - (b) a monument within the curtilage, or
 - (c) an object or structure forming part of the land within the curtilage which is used wholly or mainly for purposes ancillary to the purposes for which the building is used.
- (3) A reference in sections 42 to 44 to a building included in the list is to be read in light of subsection (2).
- (4) “Monument” includes a tomb, gravestone or other memorial and any kerb or setting forming part of it.

Commencement Information

- I2** S. 39 in force at 1.9.2018 by S.I. 2018/720, art. 2

Changes to legislation: There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, Cross Heading: The list of places of worship. (See end of Document for details)

40 Application: who may apply

- (1) In the case of a building within section 38(2)(a) (peculiar), (2)(c) (building for religious community) or (2)(d) (public or charitable institution), an application for inclusion in or removal from the list must be made—
 - (a) if the building is held on charitable trusts, by the persons having the general control and management of the administration of the charity, or
 - (b) otherwise, by the person having the general control and management of the building.
- (2) In the case of a building within section 38(2)(b) (episcopal house of residence), an application for inclusion in or removal from the list must be made by the bishop or archbishop concerned.
- (3) In the case of a building within section 38(2)(e) (shared church), an application for inclusion in or removal from the list must be made by the person having the general control and management of the building.
- (4) The person who is entitled to apply for the inclusion of a building in the list, or its removal from the list, is also entitled to apply to the Church Buildings Council for an alteration of the entry in the list relating to the building.

Commencement Information

I3 [S. 40](#) in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

41 Application: requirements for consent etc.

- (1) An application within section 40(1)(b) (peculiar, building for religious community or public or charitable institution, where applicant has general control of building) relating to a building which is not subject to a tenancy may not be made without the consent of the owner.
- (2) An application within section 40(1)(b) relating to a building which is subject to a tenancy may not be made without the consent—
 - (a) if the applicant is the owner, of the tenant;
 - (b) if the applicant is the tenant, of the owner;
 - (c) otherwise, of the owner and the tenant.
- (3) Subsections (1) and (2) do not apply if the Church Buildings Council is satisfied that—
 - (a) the owner cannot be found after reasonable efforts to find the owner have been made, or
 - (b) it is impracticable to seek the owner's consent.
- (4) Subsection (2) does not apply if the Church Buildings Council is satisfied that—
 - (a) the tenant cannot be found after reasonable efforts to find the tenant have been made, or
 - (b) it is impracticable to seek the tenant's consent.
- (5) In the case of a building within section 38(2)(a) (peculiar) or (2)(d) (public or charitable institution) in relation to which there is a Visitor, an application for inclusion in or removal from the list may not be made without the consent of the Visitor.

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- (6) In the case of a building within section 38(2)(b) (episcopal house of residence), an application for inclusion in or removal from the list may not be made without the consent of the Church Commissioners.
- (7) Nor may an application of the kind mentioned in subsection (6) be made—
- (a) in the case of Lambeth Palace or Old Palace Canterbury, during a vacancy in the see of Canterbury;
 - (b) in the case of Bishopthorpe Palace, during a vacancy in the see of York;
 - (c) in any other case, during a vacancy in the see of the bishop of the diocese in which the building is situated.
- (8) In the case of a building within section 38(2)(c) (building for religious community), an application for inclusion in or removal from the list may not be made without the consent of the superior of the religious community concerned; and the superior may consult the Visitor before deciding whether or not to consent.
- (9) In the case of a building within section 38(2)(e) (shared church), an application for inclusion in or removal from the list may not be made unless the requirements of the sharing agreement concerned, or of any arrangements made under it, relating to consultation or consent in the management of the building have been met.
- (10) In the case of a building which is part of a prison, an application for inclusion in or removal from the list may not be made without the consent of the Chaplain-General of Prisons.
- (11) An application for inclusion in or removal from the list must be made in the manner specified by rules.
- (12) “Owner”, in relation to a building, means the person who is for the time being the estate owner of the fee simple in the building.
- (13) “Tenant”, in relation to a building subject to a tenancy, means the person who is for the time being entitled to the tenancy.

Commencement Information

I4 S. 41 in force at 1.9.2018 by S.I. 2018/720, art. 2

42 Determination of application, removal from list

- (1) On an application for the inclusion of a building in the list, or for the removal of a building from the list, the Church Buildings Council must grant the application unless it is satisfied that the application does not meet—
- (a) the requirements of sections 38 to 41, or
 - (b) the requirements of any rules which relate to the application.
- (2) The Church Buildings Council may remove a building from the list if it considers that—
- (a) the building is no longer eligible for inclusion, or
 - (b) an order or direction of a court in connection with its faculty jurisdiction, or an undertaking given in connection with the application for inclusion, has not been complied with.

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- (3) But the Council may not act under subsection (2) without having given the person who is entitled to make an application in respect of the building under section 40 an opportunity to show why the building should not be removed from the list.
- (4) The removal of a building from the list under this section does not affect sections 69 to 73 (orders in case of default etc.) in their application to the building or anything done under any of those sections before the removal.

Commencement Information

I5 S. 42 in force at 1.9.2018 by S.I. 2018/720, art. 2

43 Effect of inclusion in the list

- (1) A building included in the list and any object or structure fixed to it (other than plant or machinery in the building) are subject to the faculty jurisdiction of the consistory court of the diocese in which the building is situated.
- (2) Accordingly, the provisions of this Measure (other than sections 56 to 58) and the provisions of any other Measure or of any rules or other instrument relating to the faculty jurisdiction apply to the building and any such object or structure.
- (3) If a chapel forming part of Lambeth Palace is included in the list—
 - (a) the Vicar-General's court of Canterbury is to exercise the faculty jurisdiction of the consistory court in relation to the chapel,
 - (b) the registrar of the province of Canterbury is to act as registrar of the Vicar-General's court for that purpose,
 - (c) the Church Buildings Council is to exercise the functions of the advisory committee in relation to the chapel, and
 - (d) in the application to the chapel of this Measure or of any other Measure or rules or other instrument relating to the faculty jurisdiction, a reference to a consistory court, to the registrar of a diocese or to an advisory committee is to be read in light of paragraphs (a) to (c).

Commencement Information

I6 S. 43 in force at 1.9.2018 by S.I. 2018/720, art. 2

44 The list: supplementary provision

- (1) The list must, in the case of each building included in it, contain or have attached to it such details of the objects and structures fixed to the building as rules specify.
- (2) The list must be open by appointment to inspection by members of the public at the offices of the Church Buildings Council during normal office hours.
- (3) A person is entitled to be supplied with a copy of an entry or document relating to a building included in the list on payment of such charge as the Council may from time to time determine in respect of the costs incurred by it.
- (4) The Council must, at least once every five years, send a copy of the list to—

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- (a) the Secretary of State,
 - (b) the Historic Buildings and Monuments Commission for England, and
 - (c) each national amenity society.
- (5) When acting under subsection (4), the Council must also send to each advisory committee in whose area a building included in the list is situated a copy of those parts of the list which relate to the building.
- (6) Where a building is included in or removed from the list, or the entry relating to a building included in the list is altered, the Council must in writing inform—
- (a) the registrar of the diocese in which the building is situated,
 - (b) the advisory committee of that diocese, and
 - (c) each person mentioned in subsection (4).
- (7) On receiving a document under subsection (5) or (6), the advisory committee of a diocese must send to each local planning authority in whose area a building mentioned in the document is situated a copy of those parts of the document that relate to that building.
- (8) “Local planning authority”, in relation to an area, means the body exercising the functions of the local planning authority under section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in that area.

Commencement Information

I7 S. 44 in force at 1.9.2018 by S.I. 2018/720, art. 2

Changes to legislation:

There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, Cross Heading: The list of places of worship.