
STATUTORY INSTRUMENTS

2013 No. 1916

The Faculty Jurisdiction Rules 2013

PART 1

Overriding objective

Overriding objective

- 1.1.**—(1) The overriding objective of these Rules is to enable the court to deal with cases justly.
- (2) Dealing with a case justly includes, so far as practicable—
- (a) ensuring that the parties are on an equal footing;
 - (b) saving expense;
 - (c) dealing with the case in ways that are proportionate to the importance of the case and the complexity of the issues; and
 - (d) ensuring that it is dealt with expeditiously and fairly.

Application by the court of the overriding objective

- 1.2.** The court must seek to give effect to the overriding objective when it—
- (a) exercises any power given to it by these Rules; or
 - (b) interprets any rule.

Duty of the parties

- 1.3.** The parties are required to help the court further the overriding objective.

Court's duty to manage cases

- 1.4.**—(1) The court must further the overriding objective by actively managing cases.
- (2) Active case management includes—
- (a) encouraging the parties and any other persons concerned in the proceedings to co-operate with each other—
 - (i) in the conduct of the proceedings, and
 - (ii) in resolving, as far as possible, matters that are in dispute between them;
 - (b) identifying the issues at an early stage;
 - (c) deciding promptly which issues (if any) need full investigation and a hearing in court and accordingly disposing of others summarily or on consideration of written representations;
 - (d) deciding the order in which issues are to be resolved;
 - (e) fixing timetables or otherwise controlling the progress of the case;

- (f) considering whether the likely benefits of taking a particular step justify the cost of taking it;
- (g) dealing with as many aspects of the case as the court can on the same occasion;
- (h) dealing with the case without the parties needing to attend court;
- (i) making effective use of technology; and
- (j) giving directions to ensure that the resolution of a case proceeds quickly and efficiently.

Case management powers

1.5. The court's case management powers are set out in Part 17.

PART 2

Application and interpretation of the Rules

Application of the Rules

- 2.1. These Rules apply to all proceedings in consistory courts relating to—
- (a) the faculty jurisdiction;
 - (b) injunctions; and
 - (c) restoration orders.

Interpretation

2.2.—(1) In these Rules—

“the archdeacon” means the archdeacon of the archdeaconry in which the church, churchyard or other building or place to which the proceedings relate is situated or, where an instrument made under section 9(1) of the Church of England (Miscellaneous Provisions) Measure 1983(1) is in force, the person appointed to perform the functions of the archdeacon to which these Rules relate;

“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” means the chancellor (or, in the case of the diocese of Canterbury, the Commissary General) of the diocese in which the church, churchyard or other building or place to which the proceedings relate is situated and includes any person appointed to act as deputy chancellor;

“church” includes—

- (a) any building which is licensed for public worship according to the rites and ceremonies of the Church of England and is subject to the faculty jurisdiction, and
- (b) the curtilage of a church unless the contrary intention appears;

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

“confirmatory faculty” means a faculty which validates any act requiring a faculty which has been done without prior authorisation by faculty;

“costs” includes costs and expenses which a person may be ordered to pay under section 13(1) of the Measure;

“the court” means the consistory court of the diocese (or, in the case of the diocese of Canterbury, the Commissary Court)

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

“exhumation” includes the removal of a body (or part of a body) or of cremated human remains from a catacomb, mausoleum, vault or columbarium;

“injunction” means an injunction issued under section 13(4) of the Measure;

“interim faculty” means a faculty issued under Part 14;

“interim injunction” means an injunction issued under rule 15.6;

“listed building” has the same meaning as it has in the Planning (Listed Buildings and Conservation Areas) Act 1990⁽²⁾;

“listed church” means a church which is a listed building;

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

“minister”, in relation to a parish, has the same meaning as in the Measure;

“national amenity society” has the same meaning as in the Measure;

“the registrar” means the registrar of the diocese in which the church, churchyard or other building or place to which the proceedings relate is situated and includes any person appointed to act as deputy registrar;

“the registry” means the diocesan registry of the diocese in which the church, churchyard or other building or place to which the proceedings relate is situated;

“the relevant person or body” means, in relation to a building which is included in the list maintained by the Church Buildings Council under section 1(1) of the Care of Places of Worship Measure 1999⁽³⁾, the person or body entitled to make an application in respect of the building by virtue of paragraph 1 of Schedule 1 to that Measure;

“restoration order” means an order made under section 13(5) of the Measure.

(2) These Rules apply to proceedings in the Commissary Court of Canterbury as they apply to proceedings in a consistory court.

(3) A reference in these Rules to a numbered form is a reference to the form bearing that number in Schedule 3.

(4) A reference in these Rules to a building included in the list maintained by the Church Buildings Council under section 1(1) of the Care of Places of Worship Measure 1999 includes—

- (a) any curtilage, monument, object or structure included in the list under section 1(4) of that Measure; and
- (b) any object or structure fixed to the building.

(5) For the purposes of these Rules, faculty proceedings are opposed only if there is a party opponent to the proceedings and references to a petition or to proceedings being opposed or unopposed are to be construed accordingly.

Time

2.3.—(1) This rule shows how to calculate any period of time for doing any act which is specified by these Rules.

(2) A period of time expressed as a number of days shall be computed as clear days.

(2) 1990 c. 9.

(3) 1999 No. 2. A relevant amendment was made by section 62(4) of the Dioceses, Pastoral and Mission Measure 2007 (2007 No. 1).

- (3) In this rule ‘clear days’ means that in computing the number of days—
- (a) the day on which the period begins; and
 - (b) if the end of the period is defined by reference to an event, the day on which that event occurs
- are not included.

- (4) Where the specified period is—
- (a) 5 days or less; and
 - (b) includes—
 - (i) a Saturday or Sunday; or
 - (ii) a Bank Holiday, Christmas Day or Good Friday,
- that day does not count.

- (5) When the period specified by these Rules for doing any act in respect of the registry ends on a day on which the registry is closed, that act shall be in time if done on the next day on which the registry is open.

PART 3

Seeking advice prior to commencement of proceedings

Seeking the advice of the Diocesan Advisory Committee

3.1.—(1) Before commencing proceedings in the consistory court, intending applicants should seek the advice of the Diocesan Advisory Committee on the works or other proposals in respect of which a faculty, injunction or restoration order is to be sought unless paragraph (2) applies.

- (2) The advice of the Diocesan Advisory Committee is not required if the proceedings—
- (a) relate exclusively to—
 - (i) exhumation, or
 - (ii) the reservation of a grave space; or
 - (b) are sufficiently urgent to justify the grant of a faculty, the issue of an injunction or the making of a restoration order without obtaining the Committee’s advice.

Documents etc. to be submitted to the Diocesan Advisory Committee

3.2.—(1) Except in a case to which rule 3.5(2) applies (trees), intending applicants must submit the following to the Diocesan Advisory Committee when seeking its advice—

- (a) the standard information in Form 1A (where advice is being sought pursuant to a resolution of the parochial church council) or Form 1B (where advice is being sought by the relevant person or body) (but see paragraph (2));
- (b) a summary of the works or other proposals on which advice is being sought;
- (c) any relevant designs;
- (d) any relevant plans;
- (e) any relevant photographs;
- (f) any other documents giving particulars of the works or other proposals;
- (g) any relevant correspondence received from the Church Buildings Council; and

(h) in the case of works that fall within paragraph 1 of Schedule 1, the information and other documents required to be provided to the Committee by paragraph 7 of that Schedule.

(2) If the intending applicants have previously submitted the standard information required by paragraph (1)(a) to the Diocesan Advisory Committee they need not do so again unless the information that was previously submitted has changed.

Proposals involving changes to listed buildings: statements of significance and needs

3.3.—(1) Where proposals involve making changes to a listed church or other listed building intending applicants must provide the Diocesan Advisory Committee with—

- (a) a document which describes—
 - (i) the significance of the church or other building in terms of its special architectural and historic interest (including any contribution made by its setting) and
 - (ii) any significant features of artistic or archaeological interest that the church or other building has

so as to enable the potential impact of the proposals on its significance, and on any such features, to be understood (a “statement of significance”); and

- (b) a document setting out the justification for the proposals (commonly known as a “statement of needs”).

(2) If proposals are likely to result in harm to the significance of the church or other building as a building of special architectural or historic interest, the document setting out the justification for the proposals must set out the basis on which it is said that the proposals would result in public benefit that outweighs that harm.

Consultation with English Heritage, amenity societies and the local planning authority in certain cases

3.4.—(1) Schedule 1 makes provision for intending applicants to consult the following bodies in certain cases—

- (a) English Heritage;
- (b) any national amenity society which has an interest in the proposals; and
- (c) the local planning authority.

(2) Intending applicants should refer to Schedule 1 and follow the steps set out there if proposals—

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

Trees

3.5.—(1) When considering whether proposals for planting, felling or for works to a tree or trees require a faculty, intending applicants must have regard to the written guidance given by the chancellor to all parochial church councils in the diocese as to the planting, felling, lopping and topping of trees in churchyards and in cases of doubt they should consult the registrar.

(2) Where intending applicants are proposing to plant, fell or carry out works to a tree or trees in a churchyard for which a faculty is required they must complete Part 1 of Form 15 and send

it, together with the standard information in Form 1A, to the Diocesan Advisory Committee when seeking its advice.

(3) If the standard information required by paragraph (2) has previously been submitted to the Diocesan Advisory Committee the intending applicants need not submit it again unless the information that was previously submitted has changed.

Giving of Diocesan Advisory Committee's advice

3.6.—(1) In the case of works or other proposals in respect of which a faculty is to be sought, the Diocesan Advisory Committee's advice must be given in a notification of advice in Form 2.

(2) The notification of advice must state whether the Diocesan Advisory Committee—

- (a) recommends the works or proposals for approval by the court;
- (b) does not recommend the works or proposals for approval by the court; or
- (c) does not object to the works or proposals being approved by the court.

(3) If the notification of advice recommends the works or proposals for approval by the court it must include a statement that the advice does not constitute authority for carrying out the works or other proposals and that a faculty is required.

(4) If the notification of advice does not recommend the works or proposals for approval by the court it must include—

- (a) the Committee's principal reasons for giving that advice; and
- (b) a statement that despite the Committee's advice, the intending applicants may, if they wish, petition the court for a faculty authorising the works or other proposals.

(5) If the notification of advice does not object to the works or proposals being approved by the court—

- (a) the Committee must consider whether to include its principal reasons for giving that advice; and
- (b) the notification of advice must include a statement that the advice does not constitute authority for carrying out the works or other proposals and that a faculty is required.

(6) A notification of advice may include a recommendation that the intending applicants should consult any of the following about all or some of the works or other proposals on which the advice of the Diocesan Advisory Committee has been sought—

- (a) English Heritage;
- (b) the local planning authority;
- (c) one or more of the national amenity societies;
- (d) the Church Buildings Council;
- (e) any other body or person.

(7) The Committee must include a recommendation that the intending applicants consult a body mentioned in paragraph (6)(a) to (c) if it appears to the Committee that its advice relates to works in respect of which Schedule 1 provides for that body to be consulted and that the relevant consultation has not already taken place.

(8) The Committee must include a recommendation that the intending applicants consult the Church Buildings Council if it appears to the Committee that its advice relates to a proposal to which rule 8.6 applies (proposals affecting articles of particular historic, architectural, archaeological or artistic interest) and the Council has not already been consulted.

(9) In the case of works or other proposals in respect of which an injunction or restoration order is to be sought—

- (a) the Committee’s advice must be given in the form of a report or letter; and
- (b) paragraphs (6) to (8) are to apply to that report or letter as they apply to a notification of advice given under paragraph (1).

Interim faculties and interim injunctions

3.7. This part is without prejudice to the court’s power at any time to grant an interim faculty under Part 14 or an interim injunction under rule 15.6.

PART 4

Faculty proceedings – parties and commencement

Parties to proceedings

- 4.1.—**(1) The parties to faculty proceedings are—
- (a) the petitioner (or petitioners);
 - (b) any party opponent; and
 - (c) any person added as a party by the court by way of special citation.
- (2) Rule 4.2 sets out the procedure under which a person may submit a petition for a faculty to the court.
- (3) A person who submits a petition is referred to as a petitioner.
- (4) Rules 8.5 and 9.4 make provision for a person to become a party opponent.
- (5) Rule 18.4 makes provision for the addition of a person as a party by way of special citation.

How to start faculty proceedings – the petition

- 4.2.—**(1) Proceedings for obtaining a faculty are started by submitting a petition to the court.
- (2) A petition may be submitted by—
- (a) the archdeacon (or in certain circumstances a person appointed by the bishop to act in place of the archdeacon);
 - (b) the minister and churchwardens of the parish concerned;
 - (c) the relevant person or body (in the case of a building included in the list maintained by the Church Buildings Council under section 1(1) of the Care of Places of Worship Measure 1999); or
 - (d) any other person appearing to the court to have a sufficient interest in the matter.
- (3) A petition is submitted to the court by sending it to the diocesan registry.
- (4) The fact that the petitioner has not complied with rule 3.1(1) (which makes provision for intending applicants to seek the advice of the Diocesan Advisory Committee) does not prevent proceedings for obtaining a faculty from being started.
- (5) Paragraph (4) is without prejudice to rule 6.2 (which makes provision for the chancellor to seek the advice of the Diocesan Advisory Committee).

Form of petition – general

4.3.—(1) Where proceedings are to be started pursuant to a resolution of the parochial church council the petition must be in Form 3A except in a case to which paragraph (3) or rule 4.4 (trees) applies.

(2) Where the proceedings are to be started by the relevant person or body (in the case of a building included in the list maintained by the Church Buildings Council under section 1(1) of the Care of Places of Worship Measure 1999) the petition must be in Form 3B except in a case to which paragraph (3) applies.

(3) Where a faculty is sought—

- (a) for exhumation,
- (b) for the reservation of a grave space, or
- (c) in relation to a memorial in a churchyard or consecrated burial ground,

the petition must be in a form approved for that purpose by the chancellor under rule 19.6(2).

Form of petition – trees

4.4. Where a petition relates to proposals for planting, felling or carrying out works to a tree or trees in a churchyard or consecrated burial ground the petition must be in Form 15.

Content of petition

4.5.—(1) The works or other proposals in respect of which a faculty is sought must be fully and accurately stated in the schedule of works or proposals contained in the petition (or, in the case of a petition which is not required to be in Form 3A or 3B, in the relevant part of the petition).

(2) The works or other proposals must be the same as those in respect of which the Diocesan Advisory Committee has given any advice under rule 3.6 (subject to any modifications to the works or proposals that have been made in order to take account of advice received by the petitioner under Part 3).

Documents etc. to accompany petition

4.6.—(1) Where proceedings are started pursuant to a resolution of the parochial church council the standard information required by Form 1A must be submitted with the petition.

(2) Where the proceedings are started by the relevant person or body (in the case of a building included in the list maintained by the Church Buildings Council under section 1(1) of the Care of Places of Worship Measure 1999) the standard information required by Form 1B must be submitted with the petition.

(3) The following are also to be submitted with every petition—

- (a) the Diocesan Advisory Committee’s notification of advice (except in a case to which rule 3.1(2) or 4.2(4) applies);
- (b) any relevant designs;
- (c) any relevant plans;
- (d) any relevant photographs;
- (e) any other documents giving particulars of the works or proposals; and
- (f) copies of any relevant correspondence received from a body mentioned in rule 3.6(6).

Register of petitions

4.7.—(1) The registrar must notify the secretary of the Diocesan Advisory Committee of the details of every petition submitted to the registry for which the advice of the Committee is required under these Rules.

(2) Notification must be in Form 10.

(3) The secretary of the Diocesan Advisory Committee must enter the details notified in the register of petitions maintained on behalf of the Committee.

Display of petition and associated documents etc. in church

4.8.—(1) Where changes to a church or other building are proposed a copy of the petition and of any designs, plans, photographs and other documents that were submitted with it must be displayed—

(a) in the church or building to which the works or other proposals relate; or

(b) at another place where they may conveniently be inspected by the public and which is identified in a notice displayed both inside and outside the church or the building.

(2) The petition, designs, plans photographs and other documents must remain on display until the petition has been determined.

(3) The chancellor or registrar may direct that paragraphs (1) and (2) are not to apply in a particular case.

PART 5

Public Notice

Requirement for public notice

5.1.—(1) Subject to paragraphs (2) and (3), every petition for a faculty is subject to the requirements of rules 5.2 to 5.5 as to the giving of public notice.

(2) Rule 5.6 (exhumation, reservation of grave space and other special cases) makes special provision which applies instead of the requirements of rules 5.2 to 5.5.

(3) The chancellor may dispense with the giving of public notice in accordance with rule 5.7.

Form of public notice

5.2.—(1) Except where paragraph (2) applies the public notice must be in Form 4A.

(2) Where the proceedings are to be started by the relevant person or body (in the case of a building included in the list maintained by the Church Buildings Council under section 1(1) of the Care of Places of Worship Measure 1999) the public notice must be in Form 4B.

(3) Every public notice must—

(a) describe the works or other proposals in the same way as they are described in the schedule of works or proposals in the petition; and

(b) contain the other details required by the relevant form.

Display of public notice etc.

5.3.—(1) Not later than the day on which the petition is submitted to the diocesan registry (or on a later day if the chancellor so directs) the petitioner must—

- (a) display the public notice in accordance with paragraph (2) if a petitioner is the minister, a churchwarden or a parochial church council (or a person acting on its behalf);
 - (b) display the public notice in accordance with paragraph (3) if the petitioner is the relevant person or body; and
 - (c) send a copy of the public notice to the registry.
- (2) Where a petitioner is the minister, a churchwarden or a parochial church council (or a person acting on its behalf) the public notice must be displayed as follows—
- (a) it must be displayed for a continuous period of 28 days;
 - (b) in the case of a petition relating to a parish church or its churchyard, it must be displayed at the parish church;
 - (c) 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, it must be displayed at the church or place of worship and also at the parish church (or each of the parish churches) of the parish;
 - (d) in the case of a petition relating to any other churchyard or consecrated burial ground, it must be displayed at the parish church (if any) and at the churchyard or burial ground in question;
 - (e) where the public notice is displayed in accordance with paragraphs (b) or (c) it must be displayed—
 - (i) inside the church on a notice board or in some other prominent position; and
 - (ii) on a notice board outside the church or in some other prominent position (whether on the church door or elsewhere) so that it can be read by the public;
 - (f) where the public notice is displayed in accordance with paragraph (d) it must be displayed on a notice board outside the parish church (if any) and on a notice board or other suitable place at the churchyard or burial ground in question so that it can be read by the public.
- (3) Where the petitioner is the relevant person or body the public notice must be displayed as follows—
- (a) it must be displayed for a continuous period of 28 days;
 - (b) it must be displayed—
 - (i) inside the building to which the proposals relate on a notice board or in some other prominent position; and
 - (ii) on a notice board outside the building or in some other prominent position (whether on the outside of the building or elsewhere) so that it can be read by the public.

Directions by registrar as to public notice

5.4. If the registrar considers that any of the following apply the registrar must give directions to the petitioner to meet the circumstances of the case—

- (a) the works or proposals are not adequately described in the public notice;
- (b) a copy of the public notice should be displayed inside or outside any other church or place of worship in the parish concerned;
- (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) so that it can be read by the public;
- (d) a copy of the public notice should be displayed in a place or places other than or in addition to those specified in rule 5.3(3)(b);
- (e) the public notice should be displayed for longer than 28 days.

Return of public notice to registrar

5.5. Once the period of 28 days required by rule 5.3(2)(a) or (3)(a), or such longer period as may have been directed under rule 5.4, has expired the petitioner must send to the registrar the public notice (or a copy of the public notice) with a completed certificate of publication.

Exhumation, reservation of grave space and other special cases

5.6.—(1) Where paragraph (2) applies the registrar must—

- (a) complete the public notice; and
- (b) give directions for the display of the public notice in accordance with any directions in that regard given by the chancellor or otherwise as the registrar thinks fit having regard to the matters in rule 5.4(b) to (d).

(2) This paragraph applies where—

- (a) the petition relates exclusively to exhumation or to the reservation of a grave space, or
- (b) the petitioner is not the minister or a churchwarden, a parochial church council (or a person acting on its behalf) or the relevant person or body.

(3) In the case of a petition that relates exclusively to exhumation, the chancellor may dispense with the giving of public notice if satisfied that any near relatives of the deceased still living and any other persons who in the opinion of the chancellor it is reasonable to regard as being concerned with the matter—

- (a) are petitioners; or
- (b) consent to the proposed faculty being granted.

(4) In any other case of a petition that relates exclusively to exhumation, the chancellor may dispense with the giving of public notice and may direct that any of the persons referred to in paragraph (3) who are not petitioners be given special notice.

Emergencies etc. – dispensing with giving of public notice

5.7.—(1) An order may be made under this rule in any case where the chancellor is satisfied—

- (a) that the petition is concerned with addressing 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 the giving of public notice under rules 5.1 to 5.6; or
- (b) that other factors mean that it would not be expedient to require the giving of public notice under those rules.

(2) An order made under this rule may—

- (a) dispense with the giving of public notice under those rules; and
- (b) having regard to all the circumstances, contain directions for a specified period of notice to be given to such persons or bodies as the chancellor thinks fit.

Interim faculties

5.8. This Part is without prejudice to the court's power at any time to grant an interim faculty under Part 14.

PART 6

Chancellor's jurisdiction

Jurisdiction of court exercised by chancellor

6.1.—(1) Except as otherwise provided by these Rules, the jurisdiction of the court is to be exercised by the chancellor.

(2) Part 7 provides for the exercise of the court's jurisdiction by the archdeacon in certain cases.

(3) Parts 8 to 15 make provision for the procedure to be followed where the jurisdiction of the court is exercised by the chancellor.

Chancellor to have advice of Diocesan Advisory Committee

6.2.—(1) Unless paragraph (2) or (3) applies, the chancellor must seek the advice of the Diocesan Advisory Committee before—

- (a) making a final determination in faculty proceedings;
- (b) issuing a permanent injunction; or
- (c) making a restoration order.

(2) If the Diocesan Advisory Committee has given its advice under rule 3.6 in respect of the works or other proposals not more than 24 months before the submission of the petition and the Committee confirm in writing that they do not wish to alter that advice, the chancellor may proceed to do any of the things mentioned in paragraph (1)(a) to (c) without seeking further advice from the Committee.

(3) The chancellor may proceed to do any of the things mentioned in paragraph (1)(a) to (c) without seeking the advice of the Diocesan Advisory Committee if—

- (a) the proceedings relate exclusively to exhumation or the reservation of a grave space; or
- (b) the chancellor is satisfied that the matter is sufficiently urgent to justify the grant of a faculty, the issue of an injunction or the making of a restoration order without obtaining the Committee's advice.

(4) This rule is without prejudice to the court's power at any time to grant an interim faculty under Part 14 or an interim injunction under rule 15.6.

Reasons for grant of faculty or dismissal of petition

6.3.—(1) Where an unopposed petition gives rise to a question of law or of doctrine, ritual or ceremonial or relates to proposals that affect the legal rights of any person or body, and the chancellor decrees the grant of a faculty but does not give judgment in court or hand down a written judgment, the chancellor must record in summary form the reasons for granting the faculty.

(2) Where a faculty is granted in opposed proceedings or where in any proceedings a petition is dismissed (in whole or in part) the chancellor must give a judgment in court or hand down a written judgment which contains the reasons for the grant or dismissal.

Issue of faculty

6.4.—(1) If the chancellor decrees the grant of a faculty the registrar must, subject to any directions given by the chancellor, issue the faculty in Form 6.

(2) If a faculty is granted subject to conditions they must be set out in the faculty.

(3) The registrar must send the faculty to the petitioner.

(4) The registrar must also send the petitioner a certificate of practical completion of works in Form 7 unless the chancellor directs otherwise.

PART 7

Archdeacon's jurisdiction

Exercise of faculty jurisdiction by archdeacon

7.1.—(1) The archdeacon is to exercise the faculty jurisdiction of the court in accordance with this Part.

(2) The archdeacon may not exercise the court's jurisdiction under Part 14 (interim faculties) or Part 15 (injunctions and restoration orders).

Allocation of petitions to archdeacon

7.2.—(1) If each of the following requirements is satisfied the registrar must allocate the petition to the archdeacon—

- (a) the petition relates only to works or other proposals specified in Schedule 2;
- (b) the works do not fall within rule 8.3 (works requiring the giving of special notice to certain bodies);
- (c) the petition is unopposed and no objection in accordance with rule 9.2 has been received by the registrar;
- (d) the Diocesan Advisory Committee recommends the works or proposals for approval by the court or does not object to the works or proposals being approved by the court.

(2) This rule is subject to rules 7.7 to 7.11.

(3) Where a petition is allocated to the archdeacon the registrar must send the following to the archdeacon—

- (a) the petition;
- (b) any documents or other materials submitted by the petitioner in accordance with rule 4.6(3) (including the Diocesan Advisory Committee's notification of advice).

Determination of petition by archdeacon

7.3. Subject to the following provisions of this Part, the archdeacon to whom a petition is allocated under rule 7.2 must determine that petition.

Archdeacon to have advice from the Diocesan Advisory Committee

7.4.—(1) If the Diocesan Advisory Committee has given a notification of advice under rule 3.6 in respect of the works or other proposals not more than 24 months before the submission of the petition and the Committee confirm in writing that they do not wish to alter that advice, the archdeacon may proceed to determine the petition without seeking further advice from the Committee.

(2) If paragraph (1) does not apply, the archdeacon must first seek the advice of the Diocesan Advisory Committee in respect of the works or other proposals to which it relates before determining the petition.

Endorsement of petition by archdeacon etc.

7.5. An archdeacon who determines a petition must endorse the petition or the court file with his or her determination and return it, and any other documents relating to it, to the registrar.

Issue of faculty

7.6.—(1) If the archdeacon decrees the grant of a faculty and both the requirements of paragraph (2) are met, the registrar must issue the faculty in Form 6.

(2) The requirements that must be met before the registrar issues the faculty are that—

- (a) the period within which an interested person is entitled to object under rule 9.2 has expired; and
- (b) no letter of objection under that rule has been received by the registrar within that period.

(3) If a faculty is granted subject to conditions they must be set out in the faculty.

(4) The registrar must send the faculty to the petitioner together with a certificate of practical completion of works in Form 7.

Further conduct of proceedings where objections received

7.7.—(1) If an objection in accordance with rule 9.2 is received by the registrar before the archdeacon has determined the petition the registrar must immediately notify the archdeacon who must immediately return the petition to the registrar for referral to the chancellor for determination.

(2) If an objection in accordance with rule 9.2 is received after the archdeacon has endorsed the petition or the court file with his or her determination that determination is to be of no effect and the registrar must refer the petition to the chancellor for determination.

Declining jurisdiction

7.8.—(1) An archdeacon may decline in advance to exercise jurisdiction in relation to any petition, or any class of petitions, which the archdeacon has jurisdiction to determine.

(2) After a petition has been allocated under rule 7.2, the archdeacon may return the petition to the registrar with a request that it (or any aspect of it) be re-allocated to the chancellor.

(3) An archdeacon must decline to exercise jurisdiction in relation to a petition if—

- (a) the archdeacon is the minister of the parish to which the petition relates;
- (b) the archdeacon has been involved with the subject matter of the petition such that it would be wrong for the archdeacon to exercise jurisdiction; or
- (c) the archdeacon considers that the petition raises a question of law or fact that should be determined by the chancellor (whether at a hearing or otherwise).

(4) Where an archdeacon must decline to exercise jurisdiction under paragraph (3)—

- (a) the archdeacon should, so far as practicable, inform the registrar before the petition is allocated; or
- (b) if the petition has already been allocated, the archdeacon must return the petition and any other documents or materials that accompany it to the registrar as soon as practicable.

(5) Where the archdeacon declines jurisdiction the registrar must allocate the petition to the chancellor.

Referral from archdeacon to chancellor

7.9.—(1) An archdeacon who becomes aware of any matter to which paragraph (2) applies must inform the registrar as soon as possible, irrespective of whether a petition or application has been submitted to the court in respect of that matter.

- (2) This paragraph applies to any matter which—
- (a) needs to be dealt with as a matter of urgency and which may be sufficiently urgent to justify the grant of a faculty without obtaining the advice of the Diocesan Advisory Committee;
 - (b) may necessitate—
 - (i) the issue of an injunction,
 - (ii) the making of a restoration order, or
 - (iii) the grant of an interim faculty; or
 - (c) gives rise to any question as to the payment of costs or expenses.

(3) Where the archdeacon informs the registrar of a matter in accordance with paragraph (1) the registrar must immediately refer the matter to the chancellor.

Referral by registrar to chancellor

7.10.—(1) If paragraph (2) applies, the registrar must refer the petition to the chancellor.

- (2) This paragraph applies if it appears to the registrar that—
- (a) a confirmatory faculty is required;
 - (b) the proposed works or proposals raise a question of law or of doctrine, ritual or ceremonial or affect the legal rights of any person or body;
 - (c) any person or body may need to be given special notice;
 - (d) there is uncertainty whether the subject matter of the petition falls within the jurisdiction conferred on the archdeacon by this Part;
 - (e) the Diocesan Advisory Committee has advised that it does not recommend the works or proposals for approval by the court;
 - (f) the petition raises matters which may justify the issue of an injunction or a restoration order;
 - (g) for any other reason it is desirable to refer the petition to the chancellor.

Re-allocation to chancellor

7.11.—(1) This rule applies if, at any stage in the proceedings, the registrar becomes aware that a petition which has been allocated to the archdeacon falls outside the jurisdiction conferred on the archdeacon by this Part (whether because information supplied in the petition was incorrect or for any other reason).

- (2) If this rule applies—
- (a) the registrar must cancel the allocation of the petition to the archdeacon and notify the archdeacon accordingly;
 - (b) the archdeacon must return the petition and any other documents or materials that accompany it to the registrar as soon as practicable; and
 - (c) the registrar must re-allocate the petition to the chancellor.

Proceedings on re-allocated petitions

7.12. Where a petition is re-allocated from the archdeacon to the chancellor under this Part, unless the chancellor orders otherwise, the matter is to proceed from the stage that was reached immediately before the petition was allocated to the archdeacon as if the petition had been allocated to the chancellor from the commencement of the proceedings.

Removal of article to place of safety

7.13.—(1) Where the archdeacon is of the opinion that an article should be removed to a place of safety immediately, an order made by the archdeacon under section 21 of the Measure must be in Form 12.

(2) In any other case where an archdeacon is considering making an order under section 21 of the Measure—

- (a) the notice required by section 21(2) must be in Form 13; and
- (b) if the archdeacon makes an order, it must be in Form 14.

Temporary minor re-ordering

7.14.—(1) On the application of the minister and a majority of the parochial church council an archdeacon may give a licence in Form 8 authorising a scheme of temporary minor re-ordering for a specified period not exceeding 15 months.

(2) A licence may not be given by the archdeacon under this rule where a parish has no minister.

(3) Before giving a licence the archdeacon must be satisfied that—

- (a) the scheme does not involve any interference with the fabric of the church or the carrying out of electrical works;
- (b) it does not involve the fixing of any item to the fabric of the church or the disposal of any fixture or other article; and
- (c) if the scheme involves moving any item—
 - (i) it will be moved by suitably competent or qualified persons;
 - (ii) it will be safeguarded and stored in a place approved by the archdeacon; and
 - (iii) it can easily be reinstated.

(4) The archdeacon may give a licence subject to any conditions that appear to the archdeacon to be necessary.

(5) If the archdeacon refuses to give a licence, the archdeacon must inform the applicants that they may, if they wish, petition the court for a faculty authorising the proposed scheme.

(6) A copy of every licence given by the archdeacon must be sent to the registrar and the secretary of the Diocesan Advisory Committee.

(7) The period specified in the licence may not be extended by the archdeacon.

(8) If a petition for a faculty in respect of the scheme authorised by the licence is submitted to the registry not less than 2 months before the expiry of the period specified in the licence, the scheme is deemed to continue to be authorised by the licence until the petition is determined by the court.

Steps to be taken on expiry of licence for temporary minor re-ordering

7.15.—(1) On the expiry of the period specified in a licence given under rule 7.14(1)—

- (a) the archdeacon must send the minister a copy of Form 9 (which asks the minister to state whether a faculty has been applied for in respect of the scheme of temporary minor re-

ordering and, if not, whether the position has been restored to that which existed before the scheme was implemented); and

- (b) the minister must complete Form 9 and return it to the archdeacon within 14 days of receiving it.

(2) If on the expiry of the period specified in the licence the parish does not have a minister, paragraph (1) is to apply as if the references to the minister were references to the churchwardens of the parish.

(3) Save to the extent that it has been authorised by faculty, when a scheme of temporary minor re-ordering ceases to be authorised under rule 7.14 the archdeacon must take steps to ensure that the position is restored to that which existed before the scheme was implemented.

PART 8

Special notice of petition, consultation etc.

Special notice

8.1. If the chancellor directs, or the law otherwise requires, any person or body to be given special notice of faculty proceedings the registrar must serve a copy of the public notice on that person.

Publication of notice in newspaper etc.

8.2. The chancellor may give directions for the publication of details relating to a petition in any newspaper or other publication (including a website).

Special notice to English Heritage, amenity societies and the local planning authority

8.3.—(1) Subject to paragraph (2), the chancellor must direct that the following bodies be given special notice if a petition relates to works in respect of which Schedule 1 provides for them to be consulted—

- (a) English Heritage;
- (b) any national amenity society which has an interest in the church or the works;
- (c) the local planning authority.

(2) Special notice is not required to be given to a body referred to in paragraph (1) if it appears to the chancellor that the body has previously been consulted on the works in question and has indicated that it has no objection or no comment to make.

Graves and memorials maintained by the Commonwealth War Graves Commission

8.4. If it appears that the works or proposals to which a petition relates will or may affect a grave or memorial maintained by the Commonwealth War Graves Commission the chancellor must direct that the Commission be given special notice.

Representations or objection by body given special notice

8.5.—(1) Where the chancellor directs that a body be given special notice under rule 8.3 or 8.4 it has a period of 21 days from the date on which it is served with the copy of the public notice within which it may—

- (a) send representations on the proposed works to the registrar and the petitioner; or
- (b) send particulars of objection in Form 5 to the registrar and the petitioner.

(2) A body which sends particulars of objection under paragraph (1)(b) becomes a party opponent to the proceedings.

Mandatory consultation with the Church Buildings Council

8.6.—(1) Subject to paragraph (3), this rule applies where proposals contained in a petition for a faculty or in an application for an injunction or a restoration order involve—

- (a) the introduction, conservation, alteration or disposal of an article of special historic, architectural, archaeological or artistic interest;
- (b) the alteration, extension or re-ordering of a church in a way that is likely significantly to affect the setting of an article of special historic, architectural, archaeological or artistic interest; or
- (c) the movement or removal of an article of special historic, architectural, archaeological or artistic interest such that the article might be adversely affected unless special precautions are taken.

(2) Where this rule applies the chancellor must seek the advice of the Church Buildings Council on the proposals that fall within paragraph (1).

(3) This rule does not apply if the chancellor is satisfied that there has already been adequate consultation with the Church Buildings Council and the Council’s advice is available to the court.

(4) In this rule, “article” includes an object fixed to land or a building or any part of such an object.

Discretionary consultation with the Church Buildings Council

8.7. In any case where rule 8.6 does not apply (or does not apply to a particular proposal) but the chancellor thinks that the advice of the Church Buildings Council would be of assistance, the chancellor may seek its advice.

Procedure for seeking and giving the Church Buildings Council’s advice

8.8.—(1) Where the chancellor seeks the advice of the Church Buildings Council under rule 8.6 or 8.7 the registrar must serve a request on the Council in Form 11.

(2) Where a request is served under paragraph (1) the registrar is also to serve on the Council a copy of the petition or application for an injunction or restoration order and such other documents and materials as have been submitted to the registry as the registrar thinks fit.

(3) If the advice of the Church Buildings Council has not been received at the registry within 21 days (or such longer period as the court may direct) the chancellor may proceed to determine the petition without the Council’s advice.

Publication of notice on diocesan website

8.9.—(1) This rule applies to works which—

- (a) fall within paragraph 1(a) of Schedule 1 and affect a grade I or II* listed church or the exterior of a grade II listed church; or
- (b) fall within paragraph 1(c) of Schedule 1.

(2) In the case of a petition in respect of works to which this rule applies the registrar or chancellor must give directions for the publication on the diocesan website of a notice which gives—

- (a) a description of the works; and
- (b) a date by which any objection must reach the registrar.

Demolition or partial demolition of church

8.10. Where the petition is for a faculty authorising the demolition or partial demolition of a church—

- (a) the petitioner must cause the notice stating the substance of the petition required by section 17(4)(a)(i) of the Measure to be published in the London Gazette and such other newspapers as the court may direct not more than 28 days after the petition was submitted to the registry;
- (b) the registrar must give the notices required by section 17(5)(a) of the Measure and each of the bodies concerned is to have a period of 28 days from the date on which it is served with the notice within which it may—
 - (i) send comments on the proposed works to the registrar and the petitioner; or
 - (ii) send a written notice of objection in Form 5 to the registrar and the petitioner.

PART 9

Objections to faculty petition

Interested persons

9.1.—(1) For the purposes of this part “interested person” means—

- (a) in relation to any petition for a faculty—
 - (i) the archdeacon;
 - (ii) the local planning authority;
 - (iii) any national amenity society;
 - (iv) any other body designated by the chancellor for the purpose of the petition; and
 - (v) any other person or body appearing to the chancellor to have a sufficient interest in the subject matter of the petition;
- (b) in relation to any petition for a faculty other than a petition that relates to a building included in the list maintained by the Church Buildings Council under section 1(1) of the Care of Places of Worship Measure 1999—
 - (i) any person who is resident in the ecclesiastical parish concerned;
 - (ii) any person whose name is entered on the electoral roll of the ecclesiastical parish concerned but who does not reside there; and
 - (iii) the parochial church council.

(2) If any question arises as to whether a person is an interested party it is to be determined by the chancellor.

Objection by interested person

9.2.—(1) An interested person may object to the grant of a faculty in respect of all or some of the works or other proposals to which a petition relates in accordance with this rule.

(2) An objection is made by sending or delivering to the registry a letter of objection addressed to the registrar.

(3) A letter of objection must state—

- (a) the capacity in which the person is objecting; and

(b) the grounds on which objection is made.

(4) A letter of objection must arrive at the registry within the period of 28 days for the display of the public notice required under rule 5.3 or where the court has directed a different period (including for the purposes of rule 8.9) within that period.

Procedure following receipt of letter of objection

9.3.—(1) Following receipt of a letter of objection from an interested person the registrar must send a written notice to the objector which states that the objector may—

- (a) become a party opponent to the proceedings by sending or delivering to the petitioner and the registrar particulars of objection in Form 5 within 21 days of receiving the written notice from the registrar; or
- (b) leave the chancellor to take the letter of objection into account in reaching a decision without becoming a party to the proceedings.

(2) The written notice must additionally contain—

- (a) a statement that if the objector chooses to become a party opponent, the objector will be entitled to take part in the proceedings, either by being heard in court or (where an order is made under rule 13.1) by making written representations, and to seek permission to appeal against any order or judgment of the court;
- (b) a statement that if the objector chooses not to become a party opponent, the objector will not be entitled to take part in the proceedings (beyond having the letter of objection taken into account by the court) and will not be entitled to seek permission to appeal against any order or judgment of the court;
- (c) a summary of the principles which apply in relation to costs in the consistory court in a form approved by the chancellor;
- (d) a statement that if particulars of objection in Form 5 are not received by the registrar within 21 days of the objector receiving the written notice from the registrar, the objector will be treated as having chosen not to become a party opponent; and
- (e) the address at which any particulars of objection are to be sent or delivered to the petitioner.

(3) The registrar must include a copy of Form 5 with the written notice.

Objector becomes party opponent

9.4. An interested person who serves particulars of objection in accordance with the procedure described in rule 9.3(1)(a) becomes a party opponent and is entitled to take part in the proceedings accordingly.

Further proceedings where objector does not become party opponent

9.5.—(1) Where an objector does not become a party opponent in accordance with rule 9.4 the registrar must—

- (a) forward a copy of the objector's letter of objection to the petitioner;
- (b) invite the petitioner to send comments on the objector's letter to the court within 21 days of receipt of the letter by the petitioner;
- (c) following the expiry of the period for sending comments to the court in respect of the last letter of objection sent to the petitioner under sub-paragraph (b), forward to the chancellor a copy of every letter of objection received in respect of the petition and any comments received from the petitioner.

(2) The chancellor must take account of any letters of objection and any comments on them received from the petitioner in reaching a decision on the petition or in giving any directions.

Unopposed petitions

9.6.—(1) Where this rule applies the chancellor may, subject to the production of any relevant evidence, grant a faculty without further proceedings.

(2) This rule applies where either of the following conditions is met—

- (a) no interested person has become a party opponent to the proceedings; or
- (b) the chancellor is satisfied that all the parties to the proceedings consent to the grant of a faculty.

Opposed petition – reply to particulars of objection

9.7.—(1) Where an interested person serves particulars of objection in accordance with the procedure described in rule 9.3(1)(a), the petitioner may serve a reply.

(2) The petitioner must serve a reply if directed to do so by the court.

(3) A reply must be in writing and state the petitioner’s case in respect of the matters raised by the party opponent in the particulars of objection.

(4) A reply is served by submitting it to the registry, and serving a copy on the party opponent, within 21 days of the petitioner receiving the particulars of objection.

PART 10

Directions

Giving directions

10.1.—(1) In any case the court may give directions for the conduct of the proceedings.

(2) When determining what, if any, directions to give, the court must seek to give effect to the overriding objective set out in rule 1.1.

(3) Directions may be given orally or in writing and with or without a hearing.

(4) The directions of the court are to be given by the chancellor, or by the registrar if authorised by the chancellor to do so.

(5) If the chancellor (or registrar) holds a hearing for the purpose of giving directions it is the duty of the parties to attend or take part in the directions hearing, either in person or by their representatives (whether or not legally qualified).

(6) The chancellor (or registrar) may request the attendance of any other person at a directions hearing.

(7) If directions are given without a hearing they must be sent by the registrar to the parties, the archdeacon and any other person or body to whom the directions relate.

Matters on which directions may be given

10.2.—(1) Subject to these Rules, directions for the conduct of the proceedings may be given as the court thinks fit.

(2) In particular, directions may relate to—

- (a) any of the matters mentioned in rule 1.4(2) (active case management) and rule 17.1 (general case management powers);
 - (b) the inspection of any church, other building, article or thing under rule 19.1;
 - (c) the issues on which the court requires evidence;
 - (d) the nature of the evidence which it requires to decide those issues;
 - (e) how any evidence is to be presented;
 - (f) how objectors are to be represented at the hearing where there are a number of objections raising the same or similar issues;
 - (g) the appointment of expert witnesses (including limiting the number of experts), the exchange of experts' reports and the identification by them of the matters on which they agree and those on which they disagree;
 - (h) limiting the number of witnesses to be called on behalf of any party;
 - (i) the service on the parties and any other persons or bodies as the court thinks fit of any evidence or advice received by the court from the diocesan advisory committee, the Church Buildings Council, English Heritage, any national amenity society or the local planning authority.
- (3) The court may use its power under this rule to exclude evidence that would otherwise be admissible.

Time and place of hearing

10.3.—(1) Directions as to the date, time and place for any hearing of the proceedings must be given by the chancellor or registrar.

- (2) Notice of the directions given under paragraph (1) must be served by the registrar on—
- (a) the parties;
 - (b) the archdeacon;
 - (c) the Church Buildings Council;
 - (d) the Diocesan Advisory Committee;
 - (e) any other body who has given advice to the chancellor in connection with the proceedings.

Witness statements

10.4.—(1) Where the evidence of witnesses (other than evidence to which rule 10.5 applies) is to be presented at a hearing, the court must direct that statements setting out the evidence to be given by each witness be served in advance of the hearing unless the court considers that there is a good reason not to do so.

- (2) A witness statement must be—
- (a) verified by a statement of truth in the following form—
“I believe that the facts stated in this witness statement are true.”; and
 - (b) signed and dated by the witness.

Expert reports

10.5.—(1) No party may call an expert or put in evidence an expert's report without the court's permission.

- (2) Expert evidence is to be given in a written report unless the court directs otherwise.

(3) Where the court gives permission to put in evidence an expert's report, it must direct that any such report—

- (a) contains a statement that the expert understands their duty is to the court, and has complied with that duty;
- (b) is addressed to the court and not to the party from whom the expert has received instructions;
- (c) gives details of the expert's qualifications;
- (d) gives details of any literature or other material which has been relied on in making the report;
- (e) contains a statement setting out the substance of all facts and instructions which are material to the opinions expressed in the report or upon which those opinions are based;
- (f) makes clear which of the facts stated in the report are within the expert's own knowledge;
- (g) says who carried out any examination, measurement, test or experiment which the expert has used for the report, give the qualifications of that person, and say whether or not the test or experiment has been carried out under the expert's supervision;
- (h) where there is a range of opinion on the matters dealt with in the report—
 - (i) summarises the range of opinions; and
 - (ii) gives reasons for the expert's own opinion;
- (i) contains a summary of the conclusions reached; and
- (j) if the expert is not able to give an opinion without qualification, states the qualification.

(4) An expert's report must be—

- (a) verified by a statement of truth in the following form—

“I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.”; and

- (b) signed and dated by the expert.

(5) The court may give such other directions with regard to expert evidence as it thinks fit having regard to the overriding objective in rule 1.1.

PART 11

Conduct of hearings

Hearings conducted as directed by chancellor

11.1. Subject to the provisions of this Part and the overriding objective, hearings are to be conducted as directed by the chancellor.

Evidence given orally

11.2.—(1) Subject to rule 11.3, evidence at a hearing must be given orally under oath or solemn affirmation.

(2) Where—

- (a) a witness statement has been served in accordance with rule 10.4,

- (b) a report has been served in accordance with rule 10.5, or
- (c) the court has allowed an application to give evidence under any of rules 12.1 to 12.4 (which require such applications to be accompanied by a witness statement),

the witness statement or report is to stand as the evidence in chief of the witness unless the court directs otherwise.

(3) A witness who gives oral evidence at a hearing may be cross-examined by any party to the proceedings (subject to any direction given under 10.2(2)(f) and to paragraph (4) of this rule).

(4) The court may limit cross-examination.

Other means of giving evidence

11.3.—(1) The chancellor may direct—

- (a) that all or any part of the evidence is to be given—
 - (i) before an examiner appointed by the court; or
 - (ii) by affidavit;
- (b) that a witness statement or a report (in the case of an expert witness) is to be received in evidence without the attendance of the maker of the statement or report.

(2) If the chancellor makes a direction under paragraph (1)(b) a direction must also be given requiring the witness statement or report to be served on the registrar and the parties not less than 21 days before the date of the hearing

(3) Where, following a direction under paragraph (1)(b), a witness statement or report is served in accordance with paragraph (2), the chancellor may direct that, notwithstanding that direction, the maker of the witness statement or report attend the hearing for cross-examination.

(4) If the chancellor makes a direction under paragraph (3) but the maker of the witness statement or report does not attend the hearing, the witness statement or report is not to be admitted in evidence unless the chancellor considers that there are exceptional circumstances to justify its being admitted.

PART 12

Evidence of non-parties

Evidence of non-parties – generally

12.1.—(1) A person who is not a party to proceedings may apply to give evidence at a hearing.

(2) An application under paragraph (1) must be accompanied by a witness statement containing the evidence that is intended to be given by the person concerned.

Demolition – evidence of the Church Buildings Council and other persons

12.2.—(1) An application to give evidence made by the Church Buildings Council, or by any other person, under section 17(4)(d) of the Measure is to be made to the registrar.

(2) If the application is made by the Church Buildings Council, the application must be submitted to the registry not more than 21 days after the Council has received notice of the petition under section 17(4)(b) of the Measure.

(3) If the application is made by any other person, the application must be submitted to the registry not more than 28 days after the date of the last publication of the notice in accordance with rule 8.10(a).

(4) An application under this rule must be accompanied by a witness statement containing the evidence to be relied on.

Evidence of the Church Buildings Council in other cases

12.3.—(1) In any case not falling within rule 12.2 the Church Buildings Council may apply to give evidence.

(2) An application under this rule must be—

- (a) submitted to the registry not less than 21 days before the hearing; and
- (b) accompanied by a witness statement containing the evidence to be relied on.

Evidence of English Heritage and national amenity societies

12.4.—(1) English Heritage or a national amenity society may apply to give evidence whether or not it has been given special notice under rule 8.3.

(2) An application under this rule must be—

- (a) submitted to the registry not less than 21 days before the hearing; and
- (b) accompanied by a witness statement containing the evidence to be relied on.

Judge's witness

12.5. The chancellor may direct the attendance of any of the following to give evidence at a hearing if it appears that the person may be able to give relevant evidence and is willing to give it—

- (a) a member or officer of the Church Buildings Council;
- (b) a member or officer of the Diocesan Advisory Committee;
- (c) any other person.

Witness statements

12.6. The requirements of rule 10.4(2) apply to a witness statement made for the purposes of this Part.

Notice to parties

12.7. Where an application to give evidence is made under rules 12.1 to 12.4, or where a direction is given under rule 12.5, the registrar must—

- (a) give the parties written notice of the application or direction;
- (b) provide them with the name and address of the witness;
- (c) in the case of an application made under rules 12.1 to 12.4, send them a copy of the witness statement that accompanies the application; and
- (d) in the case of a witness whose attendance is directed under rule 12.5, inform them of the nature of the evidence that is sought from that witness.

Treatment of non-party witness

12.8. A witness who gives evidence under any of rules 12.2 to 12.5 may ask questions of any party if the chancellor gives permission.

PART 13

Disposal of proceedings by written representations

Conditions for disposal by written representations

13.1.—(1) The chancellor may order that any proceedings to which these Rules apply are to be determined on consideration of written representations instead of by a hearing provided each of the conditions set out in paragraph (2) is met.

(2) The conditions are—

- (a) the chancellor considers that determination of the proceedings on consideration of written representations is expedient;
- (b) all of the parties have agreed in writing to such a course; and
- (c) the case is not one where the chancellor is required to hear evidence in open court by virtue of section 17(4)(d) of the Measure (which provides, in certain cases involving demolition, for the making of applications by the Church Buildings Council and other persons to give evidence in open court).

Directions

13.2.—(1) Where an order is made under rule 13.1 the chancellor may give directions for the purpose of determining the proceedings on consideration of written representations.

(2) If a party fails to comply with a direction under paragraph (1) the chancellor may proceed to dispose of the proceedings without further reference to that party.

Revocation of order for disposal by written representations

13.3.—(1) The chancellor may at any time prior to the final determination of the proceedings revoke an order that they be determined on consideration of written representations.

(2) If the chancellor revokes an order under paragraph (1) directions must be given for the future conduct of the proceedings, including directions for a hearing.

Inspection of church etc.

13.4. Where an order has been made under rule 13.1, the chancellor may nevertheless inspect any church, other building, article or thing which is the subject of the proceedings or concerning which any question arises in the proceedings.

Determination

13.5.—(1) Where an order has been made under rule 13.1 and has not been revoked, the chancellor may proceed to determine the proceedings upon consideration of the pleadings and any relevant evidence that has been submitted to the court.

(2) The chancellor's determination is to have the same effect for all purposes as if it had been made after an oral hearing.

PART 14

Interim faculties

Scope and effect of interim faculties

14.1.—(1) An interim faculty may be granted by the chancellor for any matter in respect of which a faculty might be granted following the final determination of a petition.

(2) Subject to the terms on which it is granted, an interim faculty constitutes authority to carry out the works or proposals in respect of which it is granted in the same way as a faculty that is granted following the final determination of a petition.

Applications for interim faculties

14.2.—(1) An application for an interim faculty may be made by any person who is entitled to submit a petition for a faculty under rule 4.2(2).

(2) An application may be made—

- (a) before or after faculty proceedings have been started in respect of the works or other proposals; and
- (b) irrespective of whether the matter has been referred to the chancellor under rule 7.9.

(3) An application may be made in any manner the court allows.

Grant of interim faculties

14.3.—(1) An interim faculty may be granted on such terms as appear to the chancellor to be just.

(2) In particular, an interim faculty may be granted on terms as to—

- (a) the giving of such notice of the works or other proposals as the court may direct;
- (b) the cessation of works or other action pending further order of the court if any objection is raised;
- (c) the giving by the applicants of undertakings to comply with any directions of the court, including any direction relating to reinstatement following the carrying out of any works authorised by the interim faculty.

(3) If an application for an interim faculty is made before faculty proceedings have been started the court must require the applicant to give an undertaking to submit a petition for a faculty in respect of the works or other proposals within a period of time specified by the chancellor.

(4) An interim faculty may be varied, extended or revoked by the court as it thinks fit.

PART 15

Injunctions and restoration orders

Applicant

15.1. An application for an injunction or restoration order may be made by—

- (a) the archdeacon;
- (b) any other person appearing to the court to have a sufficient interest in the matter.

Form of application

15.2.—(1) Subject to rule 15.6 (interim injunctions), an application for an injunction or a restoration order is made by submitting an application in Form 16 to the registry to be issued by the registrar.

(2) An application submitted under paragraph (1) must be accompanied by a witness statement made by the applicant or a person acting on the applicant's behalf.

(3) The witness statement that accompanies an application must—

(a) give details of the facts and matters relied on in support of the application;

(b) be—

(i) verified by a statement of truth in the following form—

“I believe that the facts stated in this witness statement are true.”; and

(ii) signed and dated by the person making the statement.

(4) Before the registrar issues an application made under paragraph (1) the registrar must enter details of the place and date of hearing in the relevant place in Form 16.

Service of application

15.3.—(1) Except where rule 15.6 applies (interim injunctions), an application for an injunction or restoration must be served by the applicant in accordance with this rule.

(2) Unless the court directs otherwise, the application, together with a copy of the witness statement required by rule 15.2(2), must be served not less than 2 days before the date of hearing entered by the registrar under rule 15.2(4).

(3) The application must be served on—

(a) any person against whom the applicant is seeking an injunction or restoration order;

(b) where faculty proceedings have been started in relation to the subject matter of the application, each of the parties to those proceedings;

(c) the archdeacon (unless the archdeacon is the applicant); and

(d) the minister (unless the minister is the applicant) or, where there is no minister, the churchwardens (unless they are the applicants).

(4) The court may dispense with service on any of the persons mentioned in paragraph (3) if it considers that it is impracticable to serve the application on that person.

(5) If the court dispenses with service under paragraph (4) it may give directions for such other steps to be taken as it thinks fit for bringing the application to the notice of any person who would otherwise be required to be served with the application.

(6) Once the applicant has served each of the persons required to be served with the application under this rule, the applicant must submit to the registry a certificate of service that—

(a) states the title of the proceedings as stated in the application;

(b) states, in respect of each of the persons who have been served—

(i) what was served;

(ii) the method of service;

(iii) the address at which the application was served; and

(iv) the date on which the application was served;

(c) is verified by a statement of truth in the following form—

“I believe that the facts stated in this certificate are true.”; and

- (d) is signed and dated by the maker of the certificate.

Evidence in response to application

15.4.—(1) Any person who is served with an application for an injunction or a restoration order may serve a witness statement in response.

- (2) A witness statement under paragraph (1) must be—

- (a) verified by a statement of truth in the following form—

“I believe that the facts stated in this witness statement are true.”; and

- (b) signed and dated by the person making the statement.

- (3) Any witness statement under paragraph (1) must be served—

- (a) on the applicant and the registrar;
- (b) by the person on whose behalf the statement is made;
- (c) within 14 days of the service of the application on that person.

(4) Subject to parts 10 and 11, any person who may submit a witness statement in response under this rule may also—

- (a) give oral evidence at the hearing;
- (b) call witnesses; and
- (c) address the court.

Terms of injunction or restoration order etc.

15.5.—(1) The chancellor may issue an injunction or make a restoration order on such terms as appear to the chancellor to be just.

- (2) An injunction and the terms on which it is issued must be in Form 17.

- (3) A restoration order and the terms on which it is made must be in Form 18.

- (4) Every injunction and restoration order must contain a penal notice in the following form—

“If you the within-named [] do not comply with this order you may be held to be in contempt of court and imprisoned or fined, or your assets may be seized.”

- (5) An order requiring a person to do an act must state the time within which the act is to be done.

- (6) The chancellor must give directions as to the service of an injunction or restoration order.

Interim injunctions

15.6.—(1) Where an applicant considers that it is necessary to apply for an injunction without complying with rules 15.2 and 15.3, the applicant may inform the registrar that the matter is one of urgency and must supply the registrar with such information as the registrar may require.

(2) Where the registrar is informed that a matter is one of urgency under paragraph (1) the registrar must immediately refer the matter to the chancellor.

(3) If the chancellor considers that the matter is of such urgency that an injunction should be issued without compliance with rules 15.2 and 15.3 the chancellor may issue an interim injunction.

(4) Subject to paragraph (5), an interim injunction is to continue in force for the period of time specified in the injunction which must not be more than 14 days from the date on which it is issued.

(5) The period of time specified under paragraph (4) may be extended by subsequent order of the court (and may be extended beyond 14 days).

(6) Subject to paragraphs (4) and (5), an interim injunction may be issued on such terms as appear to the chancellor to be just.

(7) An interim injunction and the terms on which it is issued must be in Form 19.

(8) If the chancellor issues an interim injunction the chancellor must give directions—

- (a) for the service of the injunction on the person against whom it is issued;
- (b) requiring the applicant to serve an application in Form 16 and a witness statement complying with rule 15.2(3) on the person against who the injunction is issued; and
- (c) subject to rule 13.1, for the hearing of the application.

Injunction without application

15.7.—(1) The court may issue an injunction of its own initiative.

(2) An injunction issued of the court's own initiative must—

- (a) be in Form 20; and
- (b) continue in force for the period of time specified in the injunction which must not be more than 14 days from the date on which it is issued.

(3) The period of time specified under paragraph (2)(b) may be extended by subsequent order of the court (and may be extended beyond 14 days).

(4) If the court issues an interim injunction of its own initiative the chancellor must give directions—

- (a) for the service of the injunction by the registrar on the person against whom it is issued; and
- (b) subject to rule 13.1, for the hearing of the matter.

Restoration order without application

15.8.—(1) The court may make a restoration order of its own initiative.

(2) Before making a restoration order of the court's own initiative, the chancellor must consider whether a special citation should be served on any person against whom a restoration order might be made requiring that person to attend before the court and affording that person an opportunity of being heard.

(3) A restoration order made of the court's own initiative must be in Form 21.

Variation etc. of injunction or restoration order

15.9. Any injunction or restoration order may be varied, extended or discharged by the court as it thinks fit.

Undertakings

15.10.—(1) In any proceedings for an injunction or a restoration order the court may accept an undertaking from the person against whom the proceedings have been brought.

(2) In paragraph (1) an undertaking is an undertaking to do or not to do a specified act.

(3) The court may decline to accept an undertaking.

(4) If the court accepts an undertaking it must require the party giving the undertaking to make a signed statement to the effect that the party understands the terms of the undertaking and the consequences of failure to comply with it.

(5) An undertaking to do an act must state the time within which the act is to be done.

PART 16

Service of documents

Methods of service etc.

16.1.—(1) Subject to any other provision of these Rules, any document may be served by any of the following methods—

- (a) leaving it at the proper address of the person to be served;
 - (b) sending it by post to that address;
 - (c) leaving it at a document exchange as provided for in rule 16.3;
 - (d) sending it by electronic means as provided for in rule 16.4; or
 - (e) in such other manner as the chancellor or registrar may direct.
- (2) In the case of a document that is required to be sent or submitted to the registry, it may be—
- (a) delivered to the registry;
 - (b) sent by post addressed to the registrar at the registry; or
 - (c) submitted by such other means (including electronic means) as the registrar may direct.

Meaning of ‘proper address’

16.2. The proper address of a person for the purposes of this Part is—

- (a) that person’s usual or last known address; or
- (b) the business address of a solicitor (if any) who is acting for that person in the proceedings.

Service through document exchange

16.3.—(1) Service may be effected via a document exchange where this rule applies.

(2) This rule applies if—

- (a) a person has given a numbered box at a document exchange as that person’s address for service;
- (b) a document exchange box number is inscribed on the writing paper of a party who acts in person or on the writing paper of a solicitor who acts for a party and the party or solicitor has not indicated in writing to the person serving the document that he or she is unwilling to accept service through a document exchange.

(3) Service via a document exchange is effected by leaving the document addressed to the relevant numbered box at that document exchange or at a document exchange which transmits documents every business day to that document exchange.

(4) Any document served via a document exchange in accordance with this rule is deemed to have been served on the second business day following the day on which it is left at a document exchange in accordance with paragraph (3).

Service by electronic means

16.4.—(1) Where a document is to be served by electronic means, the party who is to be served or the solicitor acting for that party must previously have indicated in writing to the party serving the document—

- (a) that the party to be served or the solicitor is willing to accept service by electronic means; and

- (b) the e-mail address or other electronic identification to which it must be sent.
- (2) The following are to be taken as sufficient written indications for the purposes of paragraph (1)
 - (a) an e-mail address or other electronic identification set out on the writing paper of the solicitor acting for the party to be served but only where it is stated that the e-mail address or electronic identification may be used for service; or
 - (b) an e-mail address or other electronic identification set out on a petition, application or other pleading that has been submitted to the court.

PART 17

The court's case management powers

The court's general powers of case management

17.1.—(1) The list of powers in this rule is in addition to any powers given to the court by any other rule or by any other enactment or any powers it may otherwise have.

- (2) Except where these Rules provide otherwise, the court may—
 - (a) extend or shorten the time for compliance with any rule or court order (even if an application for extension is made after the time for compliance has expired);
 - (b) give permission to a party to amend any pleading or other document on such terms (including as to the giving of further public notice) as it considers just;
 - (c) adjourn or bring forward a hearing;
 - (d) require a party or a party's legal representative to attend the court;
 - (e) hold a hearing and receive evidence by telephone or by using any other method of direct oral communication;
 - (f) direct that part of any proceedings be dealt with as separate proceedings;
 - (g) stay the whole or part of any proceedings or judgment either generally or until a specified date or event;
 - (h) consolidate proceedings;
 - (i) try two or more sets of proceedings on the same occasion;
 - (j) direct a separate trial of any issue;
 - (k) decide the order in which issues are to be tried;
 - (l) exclude an issue from consideration;
 - (m) dismiss or give judgment on any proceedings after a decision on a preliminary issue;
 - (n) order any party to file and serve an estimate of costs;
 - (o) take any other step or make any other order for the purpose of managing the case and furthering the overriding objective.
- (3) When the court makes an order, it may—
 - (a) make it subject to conditions, including a condition to pay a sum of money into court; and
 - (b) specify the consequence of failure to comply with the order or a condition.
- (4) A power of the court under these Rules to make an order includes a power to vary or revoke the order.
- (5) An order under paragraph (2)(a) may be made by the registrar or by the chancellor.

Registrar's power to refer to chancellor

17.2. Where a step is to be taken by the registrar—

- (a) the registrar may consult the chancellor before taking that step;
- (b) the step may be taken by the chancellor instead of the registrar.

Court's power to make order of its own initiative

17.3.—(1) Except where a rule or some other enactment provides otherwise, the court may exercise its powers on an application or of its own initiative.

(2) Where the court proposes to make an order of its own initiative—

- (a) it may give any person likely to be affected by the order an opportunity to make representations; and
- (b) where it does so it must specify the time by and the manner in which the representations must be made.

(3) Where the court proposes—

- (a) to make an order of its own initiative; and
- (b) to hold a hearing to decide whether to make the order,

it must give each party likely to be affected by the order at least 3 days' notice of the hearing.

(4) The court may make an order of its own initiative, without hearing the parties or giving them an opportunity to make representations.

(5) Where the court has made an order under paragraph (4)—

- (a) a party affected by the order may apply to have it set aside, varied or stayed; and
- (b) the order must contain a statement of the right to make such an application.

(6) An application under paragraph (5)(a) must be made—

- (a) within such period as may be specified by the court; or
- (b) if the court does not specify a period, not more than 7 days after the date on which the order was served on the party making the application.

(7) This rule does not apply where a rule makes specific provision for the court to make an order of its own initiative.

PART 18

Costs

General

18.1.—(1) The court may exercise its power to make an order for costs against a party at any stage in proceedings.

(2) If a court proposes to make an order for costs other than at a hearing it must afford the person against whom the order is proposed to be made an opportunity to make representations to the court, either in writing or at a hearing, as the court thinks fit.

(3) The court may comply with the requirements of paragraph (2) by making a provisional order for costs that is to come into effect after the expiry of a specified period of time unless within that period the person against whom the order is made makes representations as to why the order should not be made.

Assessment of costs

18.2. Unless the amount of any costs is specified in the order made by the chancellor, costs are to be assessed by the registrar in such manner as the registrar thinks just, subject to any directions given by the chancellor.

Appeals against registrar's assessment

18.3.—(1) Any appeal against the registrar's assessment of costs is to be made to the chancellor in such manner as the chancellor may direct.

(2) On an appeal the chancellor may confirm or vary the registrar's assessment.

Special citation of persons in default

18.4.—(1) Where any person who is not already a party to faculty proceedings is alleged to be responsible or partly responsible for an act or default in consequence of which the proceedings were instituted the court may issue a special citation adding that person as a party to the proceedings.

(2) A special citation issued under paragraph (1) must state—

- (a) that the person is being added as a party to the proceedings in order that the court may consider making an order for costs against that person under section 13(1) of the Measure; and
- (b) the grounds on which it is alleged that the person is responsible or partly responsible for the act or default in question.

(3) If a special citation requires a person to attend court it must specify the date, time and place at which that person is to attend.

PART 19

Miscellaneous and General

Inspection of church etc.

19.1. The chancellor may at any stage in proceedings inspect any church, other building, article or thing which is the subject of the proceedings or concerning which any question arises in the proceedings.

Non-compliance

19.2.—(1) A failure to comply with any provision of these Rules does not render any proceedings void unless the chancellor directs otherwise.

(2) Where there has been a failure to comply with any provision of these Rules, the chancellor may set aside (either wholly or in part) or vary any faculty, judgment, order or decree on such terms as appear to the chancellor to be just.

Setting aside in other circumstances

19.3.—(1) If it appears to the chancellor just and expedient to do so, the chancellor may order that any faculty, judgment, order or decree—

- (a) be set aside (either in whole or in part); or
- (b) be amended.

(2) If the court is considering exercising the power conferred by paragraph (1)(b) in a manner that would constitute a substantial change in the works or proposals already authorised by faculty the court must give such directions as to the giving of notice to the public and to such other persons and bodies as it considers just.

Clerk of the court

19.4.—(1) Subject to paragraph (2), the registrar is to sit as clerk of the court.

(2) If the chancellor considers that the registrar ought not to sit as the clerk of the court at a particular hearing because—

- (a) the registrar has acted for any of the parties; or
- (b) has otherwise been personally connected with the proceedings,

the chancellor must appoint another suitably qualified person to sit as clerk in place of the registrar at the hearing.

Procedural questions

19.5.—(1) Where—

- (a) any procedural question arises in relation to proceedings to which these Rules apply; or
- (b) the court considers it expedient that any procedural direction be given in relation to the proceedings,

and in either case no provision is made for that matter in these Rules, the chancellor is to resolve that question or to give such directions as appear to the chancellor to be just and convenient.

(2) In resolving any question, or giving any directions, under paragraph (1) the chancellor must be guided, so far as practicable, by the Civil Procedure Rules.⁽⁴⁾

Departure from prescribed forms

19.6.—(1) Where a rule requires a document to be in a particular form prescribed by these Rules and that form is not in all respects suitable, the rule is to be construed as requiring a form in substantially the same form but subject to such variations as the circumstances require.

(2) The chancellor may approve or give directions as to the forms that are to be used—

- (a) where a faculty is sought—
 - (i) for exhumation;
 - (ii) for the reservation of a grave space;
 - (iii) in relation to a memorial in a churchyard or consecrated burial ground; or
- (b) in any other case where these Rules do not require a document to be in a particular form.

Electronic signatures

19.7. Where any provision of these Rules requires a document to be signed, or any form prescribed by these Rules requires a signature, the document or form may be signed by electronic means.

(4) [S.I. 1998/3132](#) (to which amendments have been made by numerous amending instruments).

PART 20

Citation, commencement, revocation and transitional provisions

Citation and commencement

- 20.1.**—(1) These Rules may be cited as the Faculty Jurisdiction Rules 2013.
(2) They come into force on 1st January 2014.

Revocation

- 20.2.** The following Rules are revoked—
- (a) the Faculty Jurisdiction (Injunctions and Restoration Orders) Rules 1992;(5)
 - (b) the Faculty Jurisdiction Rules 2000;(6) and
 - (c) the Faculty Jurisdiction (Care of Places of Worship) Rules 2000.(7)

Transitional provisions

- 20.3.**—(1) Subject to paragraph (3), nothing in these Rules is to apply to any proceedings that are pending on the coming into force of these Rules and which were subject to any of the Rules that are revoked by rule 20.2.
- (2) Subject to paragraph (3), any proceedings to which paragraph (1) applies are to continue to be subject to the Rules which applied to them immediately before the coming into force of these Rules.
- (3) The chancellor may direct that these Rules, or any part or parts of them, are to apply to any proceedings to which paragraph (1) applies.

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Approved by the General Synod (with amendment)

7th July 2013

Jacqui Philips
Clerk to the Synod

(5) S.I. 1992/2884.
(6) S.I. 2000/2047.
(7) S.I. 2000/2048.