
STATUTORY INSTRUMENTS

2013 No. 1916

The Faculty Jurisdiction Rules 2013

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.