
STATUTORY INSTRUMENTS

2015 No. 1568

The Faculty Jurisdiction Rules 2015

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 18.

PART 2

Application and interpretation of the Rules

Application of the Rules

2.1.—(1) Parts 1, 2 and 4 to 20 and Schedules 2 and 3 apply to proceedings in consistory courts relating to—

- (a) the faculty jurisdiction;
- (b) injunctions; and
- (c) restoration orders.

(2) Parts 1, 2, 11, 12, 13, 17, 18, 19, 20 and 21 to 27 and Schedule 3 apply to appeals relating to proceedings of a kind mentioned in paragraph (1).

(3) Part 3 and Schedule 1 make provision for certain matters within the jurisdiction of consistory courts to be undertaken without a faculty.

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;

“appeal court” means the court in which an appeal is brought and includes a Commission of Review;

“the chancellor” means the chancellor (or, in the case of the diocese of Canterbury, the Commissary General) of the diocese ;

“church” includes—

- 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
- the curtilage of a church unless the contrary intention appears;

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

“costs” includes—

(1) 1983 No. 2.

fees, charges, disbursements, expenses and remuneration, and any 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 relation to an appeal, the appeal court;

“Historic England” 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;

“intending applicant” means a person who intends to start proceedings in the consistory court for a faculty, injunction or restoration order;

“interim faculty” means a faculty issued under Part 15;

“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;

“party opponent” means a person who to any extent opposes the grant of a faculty and who has become a party to the proceedings;

“petitioner” means a person who starts faculty proceedings by submitting a petition to the consistory court;

“the registrar” means the registrar of the court;

“the registry” means—

in relation to a consistory court, the registry of the diocese for which that court is constituted;

in relation to an appeal court, the office of the registrar of that court;

“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 the Commissary Court of Canterbury as they apply to a consistory court.

(3) These Rules apply to a listed building of grade A, B or C as they apply to, respectively, a listed building of grade I, II* or II.

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

(5) 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

(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).

(b) any object or structure fixed to the building.

(6) 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.

(7) Rule 21.2 makes further provision for the interpretation of Parts 21 to 27 (Appeals).

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.

(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 or registrar 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

Matters not requiring a faculty

Scope and interpretation

3.1.—(1) Rule 3.2 and Schedule 1 provide for the matters prescribed in List A to be undertaken without a faculty.

(2) Rule 3.3. and Schedule 1 provide for the matters prescribed in List B to be undertaken without a faculty.

(3) Rule 3.4 provides for additional matters prescribed by the chancellor to be undertaken without a faculty.

(4) Rules 3.2 to 3.4 are subject to rules 3.5 to 3.7 (which exclude certain matters from being undertaken without a faculty and make other supplementary provision).

(5) In this Part “authorised person” means—

(a) a person acting on behalf of the minister and churchwardens of the parish concerned (or, if there is no minister, on behalf of the churchwardens);

- (b) 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, the relevant person or body or a person acting on their behalf; or
- (c) a person designated by the chancellor in respect of a parish or other place for the purposes of this Part.

(6) For the purposes of Schedule 1 and work to an electrical installation or electrical equipment, “accredited certification scheme” means a scheme of product conformity certification for industrial and commercial electrical work which applies to the work that is to be carried out and which is accredited by the United Kingdom Accreditation Service (UKAS).

(7) If another body is appointed as the national accreditation body for the purposes of Article 4(1) of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9th July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93(4), the reference in paragraph (6) to UKAS is to be read as a reference to that body.

Undertaking matters in List A without a faculty

3.2. An authorised person may undertake any matter prescribed in the first column of Table 1 in Schedule 1 (“List A”) without a faculty subject to any conditions that are specified in relation to that matter in the corresponding place in the second column of the Table.

Undertaking matters in List B without a faculty

3.3.—(1) An authorised person may undertake any matter prescribed in the first column of Table 2 in Schedule 1 (“List B”) without a faculty—

- (a) if the archdeacon has been consulted on the proposal to undertake the matter and has given notice in writing that it may be undertaken without a faculty; and
- (b) subject to—
 - (i) any conditions that are specified in relation to that matter in the corresponding place in the second column of Table 2; and
 - (ii) any additional conditions imposed by the archdeacon under paragraph (2)(b).

(2) Where the archdeacon is consulted under paragraph (1)(a) on the proposal to undertake a matter, the archdeacon—

- (a) must seek the advice of the Diocesan Advisory Committee or such of its members or officers as the archdeacon thinks fit before deciding whether to give notice that it may be undertaken without a faculty; and
- (b) may make the undertaking of the matter subject to additional conditions specified by the archdeacon in the notice.

(3) A notice given by the archdeacon under paragraph (1)(a) must specify the proposals which may be undertaken without a faculty.

(4) The archdeacon must retain a copy of every notice given under paragraph (1)(a) and must also send a copy to—

- (a) the registrar of the diocese for filing in the diocesan registry; and
- (b) the secretary of the Diocesan Advisory Committee.

(4) O.J. L218, 13.8.2008, pp 30-47. The United Kingdom Accreditation Service was appointed as the national accreditation body by S.I. 2009/3155.

(5) If the archdeacon declines to give notice under paragraph (1)(a) that a proposal may be undertaken without a faculty the archdeacon must inform the applicants that they may, if they wish, petition the court for a faculty to authorise the proposal.

(6) If the archdeacon is the incumbent or priest in charge of a benefice where it is proposed to undertake a matter that is prescribed in List B, references in this rule to the archdeacon are to be read as if they were references to the chancellor.

Additional matters which may be undertaken without a faculty

3.4.—(1) An order made by the chancellor under section 18C(1) of the Measure (which provides that, in addition to the matters prescribed in List A and List B, any matter specified in the order may be undertaken without a faculty) is known as “an additional matters order”.

(2) The registrar of the diocese must—

- (a) register every additional matters order (or order that varies or revokes an additional matters order) in the diocesan registry;
- (b) arrange for its publication on the diocesan website;
- (c) send a copy to—
 - (i) every archdeacon to whose archdeaconry the order applies;
 - (ii) the secretary of the Diocesan Advisory Committee; and
 - (iii) the secretary of the Church Buildings Council.

(3) Where the chancellor has made an additional matters order, any matter specified in the order may be undertaken without a faculty in the diocese, or the part of the diocese, to which the order applies; but this is subject to paragraph (4).

(4) Where an additional matters order specifies conditions in relation to a matter (including any condition as to who may undertake the matter), the matter may be undertaken without a faculty only if those conditions are complied with.

Excluded matters – general

3.5.—(1) Rules 3.2 to 3.4 do not permit the undertaking of any of the following matters—

- (a) any works which 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) any works which are likely to affect the archaeological importance of a building or any archaeological remains within a building or its curtilage;
- (c) any works in respect of all or part of which scheduled monument consent is required under the Ancient Monuments and Archaeological Areas Act 1979(5);
- (d) any works which involve extension, demolition or partial demolition of a building, or the erection of a new building;
- (e) any matter which gives rise to a question of law or of doctrine, ritual or ceremonial or which would, if undertaken, affect the legal rights of any person;
- (f) the exhumation or other disturbance of human remains;
- (g) the reservation of a grave space;
- (h) the sale or other disposal of any article of architectural, archaeological, artistic or historic interest;

- (i) the sale of any book remaining in or belonging to a library to which the Parochial Libraries Act 1708 applies;
- (j) the introduction of an aumbry or any other receptacle used for the reservation of the sacrament of Holy Communion; or
- (k) the introduction of, or the carrying out of any work to, a monument of the kind referred to in section 3 of the Faculty Jurisdiction Measure 1964(6).

(2) The reference in paragraph (1)(e) to a matter affecting the legal rights of a person does not include a reference to the grant of a licence for the grazing of a churchyard by livestock.

(3) Where it is proposed to undertake a matter which falls within paragraph (1) a faculty (or an interim faculty under Part 15) must be sought.

Excluded matters orders

3.6.—(1) An order made by the chancellor under section 18C(3) of the Measure (which provides, in respect of a parish, church, churchyard or other building or place in the diocese, that a matter specified in the order may not be undertaken without a faculty even though it is prescribed in List A or List B) is known as “an excluded matters order”.

(2) The registrar of the diocese must—

- (a) register every excluded matters order (or order that varies or revokes an excluded matters order) in the diocesan registry;
- (b) arrange for its publication on the diocesan website;
- (c) send a copy to—
 - (i) the minister and churchwardens of any parish affected by the order;
 - (ii) the archdeacon of every archdeaconry in which a parish affected by the order is situated;
 - (iii) the secretary of the Diocesan Advisory Committee; and
 - (iv) the secretary to the Church Buildings Council.

(3) Any churchwardens who are sent a copy of an excluded matters order (or order that varies or revokes an excluded matters order) by the registrar of the diocese must keep it with the inventory, and insert a copy in the log book, maintained by them under section 4(1) of the Measure.

(4) Where the chancellor has made an excluded matters order and it is proposed to undertake a matter specified in the order in respect of the parish, church, churchyard or other building or place in the diocese to which the order relates, a faculty (or an interim faculty under Part 15) must be sought.

Supplementary

3.7.—(1) The fact that a matter may be undertaken without a faculty under this Part does not remove that matter from the jurisdiction of the court.

(2) The court may accordingly give any judgment, grant any faculty or make any order or decree (including making the grant of a faculty subject to a condition) in respect of that matter as it might give, grant or make in respect of any other matter which is within the jurisdiction of the court.

(3) A matter may not be undertaken without a faculty under this Part if undertaking that matter would be in breach of—

- (a) any condition subject to which a faculty has been granted,
- (b) the terms of any injunction or restoration order, or

- (c) the terms of any undertaking given to the court.
- (4) Any question as to whether a particular matter is or is not a matter that may be undertaken without a faculty under this Part is to be determined by the court.
- (5) The determination may be made by the court on its own initiative or on the application of—
 - (a) an authorised person,
 - (b) in the case of a matter specified in an additional matters order, a person who may undertake the matter under the order, or
 - (c) the archdeacon.
- (6) The court will determine the question without a hearing on consideration of such written representations (if any) as the court thinks fit unless the court orders that the question be determined at a hearing.

PART 4

Seeking advice prior to commencement of proceedings

Seeking the advice of the Diocesan Advisory Committee

- 4.1.**—(1) Before starting 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

- 4.2.**—(1) 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 advice or other material obtained by the intending applicants relating to the environmental implications of the works or other proposals;
 - (g) any other documents giving particulars of the works or other proposals;
 - (h) any relevant correspondence received from the Church Buildings Council; and

- (i) in the case of works which are subject to a requirement for consultation under Schedule 2, the information and other documents required to be provided to the Committee by paragraph 6 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

4.3.—(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 Historic England, amenity societies and the local planning authority in certain cases

4.4.—(1) Schedule 2 makes provision for intending applicants to consult the following bodies in certain cases—

- (a) Historic England;
- (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 2 and follow the steps set out there if proposals—

- (a) involve demolition of a listed building or its alteration or extension 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.

Giving of Diocesan Advisory Committee’s advice

4.5.—(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) Historic England;
 - (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 2 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 9.6 applies (proposals affecting articles of special 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) apply to that report or letter as they apply to a notification of advice given under paragraph (1).

Interim faculties and interim injunctions and restoration orders

4.6. This part is without prejudice to the court’s power at any time to grant an interim faculty under Part 15 or an interim injunction or interim restoration order under rule 16.6.

PART 5

Faculty proceedings – parties and commencement

Parties to proceedings

- 5.1.**—(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 5.2 explains how to start faculty proceedings.
- (3) Rules 9.5 and 10.4 make provision for a person to become a party opponent.
- (4) Rule 19.4 makes provision for the addition of a person as a party by way of special citation.

How to start faculty proceedings – the petition

- 5.2.**—(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;
 - (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 registry.
- (4) The fact that the petitioner has not complied with rule 4.1(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 7.2 (which makes provision for the chancellor to seek the advice of the Diocesan Advisory Committee).

Form of petition

- 5.3.**—(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) 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 20.6(2).

Content of petition

5.4.—(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 4.6, 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 4.

(3) Where modifications have been made to the works or proposals in order to take account of advice received by the petitioner, the modifications must be described in the petition.

(4) Where it is proposed to dispose of any article, details of the proposal must be given in the petition.

Documents etc. to accompany petition

5.5.—(1) Where proceedings are started pursuant to a resolution of the parochial church council the standard information in 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 in Form 1B must be submitted with the petition.

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

- (a) the Diocesan Advisory Committee's notification of advice (except in a case to which rule 4.1(2) or 5.2(4) applies);
- (b) any relevant designs;
- (c) any relevant plans;
- (d) any relevant photographs;
- (e) any advice or other material relating to the environmental implications of the works or other proposals;
- (f) any other documents giving particulars of the works or other proposals; and
- (g) copies of any relevant correspondence received from a body mentioned in rule 4.5(6).

(4) Where a petition seeks a faculty to authorise the demolition or partial demolition of a church under section 17(2) or (3)(a) of the Measure(7), the written consent of the bishop of the diocese to the proceedings being brought must also be submitted with the petition.

Register of petitions

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

(2) Notification must be in Form 11.

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

(7) Section 17 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (1991 No. 1) was substituted by section 13(2) of the Church of England (Miscellaneous Provisions) Measure 2014 (2014 No. 1).

Display of petition and associated documents etc. in church

5.7.—(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 6

Public Notice

Requirement for public notice

6.1.—(1) Subject to paragraphs (2) and (3), every petition for a faculty is subject to the requirements of rules 6.2 to 6.5 as to the giving of public notice.

(2) Rule 6.6 (exhumation, reservation of grave space and other special cases) makes special provision which applies instead of the requirements of rules 6.2 to 6.5.

(3) The chancellor may dispense with the giving of public notice in accordance with rule 6.7.

Form of public notice

6.2.—(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.

6.3.—(1) Not later than the day on which the petition is sent to the 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

6.4. 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 6.3(3)(b);
- (e) the public notice should be displayed for longer than 28 days.

Return of public notice to registrar

6.5. Once the period of 28 days required by rule 6.3(2)(a) or (3)(a), or such longer period as may have been directed under rule 6.4, 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

6.6.—(1) Paragraph (2) applies where—

- (a) a petition relates exclusively to—
 - (i) exhumation (and the chancellor does not dispense with the giving of public notice under paragraph (3) or (4)), or
 - (ii) 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.
- (2) Where this paragraph applies the registrar must—
 - (a) complete the public notice; and
 - (b) give directions for the display and return 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 6.4(b) to (d).
- (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

- 6.7.**—(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 6.1 to 6.6; 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

6.8. This Part is without prejudice to the court’s power at any time to grant an interim faculty under Part 15.

PART 7

Chancellor’s jurisdiction

Jurisdiction of consistory court exercised by chancellor

7.1. The jurisdiction of the consistory court is to be exercised by the chancellor (except as otherwise provided by these Rules).

Chancellor to seek advice of Diocesan Advisory Committee

7.2.—(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 4.5 in respect of the works or other proposals not more than 24 months before the submission of the petition or application, 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 15 or an interim injunction or interim restoration order under rule 16.6.

Reasons for grant of faculty or dismissal of petition

7.3.—(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

7.4.—(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 7.

(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 8 unless the chancellor directs otherwise.

PART 8

Archdeacon's jurisdiction

Removal of article to place of safety

8.1.—(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 13.

(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 14; and
- (b) if the archdeacon makes an order, it must be in Form 15.

Temporary minor re-ordering

8.2.—(1) On the application of the minister and the parochial church council an archdeacon may give a licence in Form 9 authorising a scheme of temporary minor re-ordering of a church (including its fixtures and fittings) 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 seek the advice of the Diocesan Advisory Committee or such of its members or officers as the archdeacon thinks fit.

(4) The archdeacon must not give a licence unless satisfied that—

- (a) the scheme does not involve any material interference with or alteration to the fabric of the church or the carrying out of electrical works;
- (b) it does not involve 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 safely stored in a place approved by the archdeacon; and
 - (iii) it can easily be reinstated.

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

(6) The archdeacon may amend or revoke a licence.

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

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

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

(10) If a petition for a faculty in respect of the scheme authorised by the licence is submitted to the court 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

8.3.—(1) On the expiry of the period specified in a licence given under rule 8.2—

- (a) the archdeacon must send the minister a copy of Form 10 (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 10 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 8.2 the archdeacon must take steps to ensure that the position is restored to that which existed before the scheme was implemented.

PART 9

Special notice of petition, consultation etc.

Special notice

9.1. 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 on that person a copy of the public notice and any other documents directed by the chancellor.

Publication of notice in newspaper etc.

9.2. 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 Historic England, amenity societies and the local planning authority

9.3.—(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 2 provides for them to be consulted—

- (a) Historic England;
- (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

9.4. 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

9.5.—(1) Where the chancellor directs that a body be given special notice under rule 9.3 or 9.4 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 and paragraphs (2) to (5) of rule 10.4 apply.

Mandatory consultation with the Church Buildings Council

9.6.—(1) 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) The chancellor must seek the advice of the Church Buildings Council on the proposals that fall within paragraph (1) unless 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.

(3) 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

9.7. In any case where rule 9.6 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

9.8.—(1) Where the chancellor seeks the advice of the Church Buildings Council under rule 9.6 or 9.7 the registrar must serve a request on the Council in Form 12 seeking the advice of the Council within 21 days (or such longer period as the court may direct).

(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 the registrar thinks fit.

Works affecting character of listed building etc: publication of notice on diocesan website

9.9.—(1) This rule applies where a petition relates to works that involve—

- (a) demolition of a listed building;
- (b) alteration to or the extension of—
 - (i) any part of a grade I or II* listed building, or
 - (ii) the exterior of a grade II listed building

to such extent as would be likely to affect its character as a building of special architectural or historic interest; or

- (c) demolition affecting the exterior of an unlisted building in a conservation area.

(2) The registrar or chancellor must give directions for the publication on the diocesan website of a notice which contains the following—

- (a) details of the church or building to which the petition relates,
- (b) a statement that an application is being made to the consistory court for permission to carry out works to the church or building,
- (c) a description of the works;

- (d) details of where a copy of the petition, plans and other documents may be inspected, and
- (e) a date (which must not be less than 21 days from the date of publication of the notice) by which any objection must reach the registrar.

Interim faculties

9.10. This Part is without prejudice to the court’s power at any time to grant an interim faculty under Part 15.

PART 10

Objections to faculty petition

Interested persons

10.1.—(1) For the purposes of this Part “interested person” in relation to a petition for a faculty means—

- (a) any person who is resident in the ecclesiastical parish concerned;
- (b) any person whose name is entered on the church electoral roll of the ecclesiastical parish concerned but who does not reside there;
- (c) the parochial church council;
- (d) the archdeacon;
- (e) the local planning authority;
- (f) any national amenity society;
- (g) any other body designated by the chancellor for the purpose of the petition;
- (h) any other person or body appearing to the chancellor to have a sufficient interest in the subject matter of the petition.

(2) But in the case of 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 subparagraphs (a) to (c) of paragraph (1) are to be disregarded.

(3) 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

10.2.—(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 a letter of objection to the registry, addressed to the registrar.

(3) A letter of objection must state—

- (a) the basis on which the person objecting is an interested person; and
- (b) the grounds on which objection is made.

(4) A letter of objection must arrive at the registry—

- (a) within the period of 28 days for the display of a public notice under rule 6.3, or
- (b) in a case where the court has given directions for a particular period of notice, within that period.

(5) An interested person who sends a letter of objection in accordance with this rule is referred to as an “objector”.

Procedure following receipt of letter of objection

10.3.—(1) Following receipt of a letter of objection 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 serving the petitioner and sending 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 14.1) by making written representations, and to appeal against any order or judgment of the court (subject to obtaining permission to appeal, if needed);
 - (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) or 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 served on the petitioner.
- (3) The registrar must include a copy of Form 5 with the written notice.

Further proceedings where objector becomes party opponent

10.4.—(1) An objector who serves particulars of objection in accordance with the procedure described in rule 10.3(1)(a) becomes a party opponent and is entitled to take part in the proceedings accordingly.

- (2) The petitioner may serve a reply to the particulars of objection.
- (3) The petitioner must serve a reply if directed to do so by the court.
- (4) A reply must be in Form 6 and state the petitioner’s case in respect of the matters raised by the party opponent in the particulars of objection.
- (5) Any reply must be sent to the registry and a copy served on the party opponent, within 21 days of the petitioner being served with the particulars of objection by the party opponent.

Further proceedings where objector does not become party opponent

- 10.5.**—(1) Where an objector does not become a party opponent 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) 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.

Unopposed petitions

10.6.—(1) 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.

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

PART 11

Directions

Giving directions

11.1.—(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) Directions may be given by the registrar to the extent the registrar is authorised to do so by the court.

(5) If the court 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 court 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—

- (a) the parties,
- (b) any other person or body to whom the directions relate, and
- (c) in the case of directions given by a consistory court, the archdeacon.

Matters on which directions may be given

11.2.—(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 18.1 (general powers of case management);
- (b) the inspection of any church, other building, article or thing under rule 20.1;
- (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 parties opponent are to be represented at a hearing where there are a number of parties opponent 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, representations or advice received by the court from the Diocesan Advisory Committee, the Church Buildings Council, Historic England, 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

11.3.—(1) Directions as to the date, time and place for any hearing of the proceedings must be given by the court.

- (2) Notice of the directions given under paragraph (1) must be served by the registrar on—
- (a) the parties;
 - (b) in the case of a hearing in a consistory court, 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

11.4.—(1) Where the evidence of witnesses (other than evidence to which rule 11.5 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

11.5.—(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 expert 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.

Inordinate delay etc. – intervention by provincial court

- 11.6.—**(1) The provincial court may give directions for the further conduct of proceedings that are pending in a consistory court if it considers that—
- (a) there has been inordinate delay in the conduct of the proceedings; or
 - (b) it is otherwise in the interests of justice.
- (2) The provincial court may give any direction which could have been given by the consistory court.
- (3) Directions under this rule may be given—
- (a) by the Dean of the Arches and Auditor sitting alone;
 - (b) on the application of any party to the proceedings or on the provincial court's own initiative.
- (4) In this rule “provincial court” means—
- (a) the Court of Arches where the proceedings are pending in the consistory court of a diocese in the province of Canterbury;
 - (b) the Chancery Court of York where the proceedings are pending in the consistory court of a diocese in the province of York.

PART 12

Conduct of hearings

Hearings conducted as directed by the court

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

Evidence given orally

12.2.—(1) Where a witness is to give evidence at a hearing, subject to rule 12.3, the witness's evidence must be given orally under oath or solemn affirmation.

(2) Where—

- (a) a witness statement has been served in accordance with rule 11.4,
- (b) an expert report has been served in accordance with rule 11.5, or
- (c) the court has allowed an application to give evidence under any of rules 13.1 to 13.3 (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 11.2(2)(f) and to paragraph (4) of this rule).

(4) The court may limit cross-examination.

Other means of giving evidence

12.3.—(1) The court may direct—

- (a) that all or any part of a witness's 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 court 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 court may direct that, notwithstanding that direction, the maker of the witness statement or report attend the hearing for cross-examination.

(4) If the court 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 court considers that there are exceptional circumstances to justify its being admitted.

PART 13

Evidence of non-parties

Evidence of non-parties generally

13.1.—(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.

Evidence of the Church Buildings Council

13.2.—(1) The Church Buildings Council may apply to give evidence whether or not it has been consulted under rule 9.6 or 9.7.

(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 Historic England and national amenity societies

13.3.—(1) Historic England or a national amenity society may apply to give evidence whether or not it has been given special notice under rule 9.3.

(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

13.4. The court 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

13.5. The requirements of rule 11.4(2) apply to a witness statement made for the purposes of this Part.

Notice to parties

13.6. Where an application to give evidence is made under rules 13.1 to 13.3, or where a direction is given under rule 13.4, 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 13.1 to 13.3, 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 13.4, inform them of the nature of the evidence that is sought from that witness.

Treatment of non-party witness

13.7. A witness who gives evidence under any of rules 13.2 to 13.4 may ask questions of any party if the court gives permission.

PART 14

Disposal of proceedings by written representations

Conditions for disposal by written representations

14.1.—(1) The chancellor may order that any proceedings in the consistory court are to be determined on consideration of written representations instead of by a hearing provided both of the conditions set out in paragraph (2) are met.

(2) The conditions are—

- (a) the chancellor considers that determination of the proceedings on consideration of written representations is expedient; and
- (b) all of the parties have agreed in writing to such a course.

Directions

14.2.—(1) Where an order is made under rule 14.1 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

14.3.—(1) The chancellor may at any time prior to the final determination of the proceedings in the consistory court 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.

Inspection of church etc.

14.4. Where an order has been made under rule 14.1, 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

14.5.—(1) Where an order has been made under rule 14.1 and has not been revoked, the chancellor may proceed to determine the proceedings upon consideration of all relevant material before the court, including any written representations submitted to the court in accordance with directions given under rule 14.2.

(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 15

Interim faculties

Scope and effect of interim faculties

15.1.—(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

15.2.—(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 5.2(2).

(2) An application may be made before or after faculty proceedings have been started in respect of the works or other proposals.

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

Grant of interim faculties

15.3.—(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, unless the chancellor orders otherwise, the applicant must 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 16

Injunctions and restoration orders

Applicant

16.1. 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

16.2.—(1) 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 (but see rule 16.6 (interim orders)).

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

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

(c) be 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

16.3.—(1) An application for an injunction or restoration must be served by the applicant in accordance with this rule (but see rule 16.6 (interim orders)).

(2) Unless the court directs otherwise, the application, together with a copy of the witness statement required by rule 16.2(2), must be served not less than 2 days before the date of hearing entered by the registrar under rule 16.2(4) 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).

(3) The court may dispense with service on any of the persons mentioned in paragraph (2) if it considers that it is impracticable to serve the application on that person.

(4) If the court dispenses with service under paragraph (3) 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.

(5) Once the applicant has served each of the persons required to be served with the application, 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

16.4.—(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

(c) served on the applicant and sent to the registry within 14 days of the service of the application for an injunction or restoration order.

(3) Subject to Parts 11 and 12, any person who may serve 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.

16.5.—(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 orders

16.6.—(1) Where an applicant considers that it is necessary to apply for an injunction or restoration order without complying with rules 16.2 and 16.3, 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 or restoration order should be issued without compliance with rules 16.2 and 16.3 the chancellor may issue an interim injunction or interim restoration order.

(4) If the court considers it just and expedient to do so it may make an interim injunction or interim restoration order without a hearing and without affording the person against who the injunction or restoration order is made an opportunity to be heard.

(5) Subject to paragraph (6), 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.

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

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

(8) An interim injunction or interim restoration order and the terms on which it is issued must be in Form 19.

(9) If the chancellor issues an interim injunction or interim restoration order the chancellor must give directions—

- (a) for the service of the injunction or restoration order 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 16.2(3) on the person against who the injunction or restoration order is issued; and
- (c) subject to rule 14.1, for the hearing of the application.

Injunction or restoration order issued of court's own initiative

16.7.—(1) The court may issue an injunction or restoration order (including an interim injunction or interim restoration order) of its own initiative.

(2) If the court considers it just and expedient to do so it may make an interim injunction or interim restoration order without a hearing and without affording the person against who the injunction or restoration order is made an opportunity to be heard.

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

- (a) be in Form 20; and
- (b) in the case of an interim injunction, 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.

(4) 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).

(5) If the court issues an interim injunction or interim restoration order of its own initiative the chancellor must give directions—

- (a) for the service of the injunction or restoration order by the registrar on the person against whom it is issued; and
- (b) subject to rule 14.1, for the hearing of the matter.

(6) 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.

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

Variation etc. of injunction or restoration order

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

Undertakings

16.9.—(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 17

Delivery of documents

Methods of service etc.

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

- (a) delivering it to or leaving it at the proper address of the person to be served;
- (b) sending it by first class post to that address;
- (c) leaving it at a document exchange as provided for in rule 17.3;
- (d) sending it by electronic means as provided for in rule 17.4; or
- (e) in such other manner as the court may direct.

(2) In the case of a document that is required to be filed or sent or submitted to the registrar or the registry, it may be—

- (a) delivered to the registry;
- (b) sent by first class post addressed to the registrar at the registry; or
- (c) submitted by such other means (including electronic means) as the registrar may allow.

Meaning of ‘proper address’

17.2. 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

17.3.—(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.

Service by electronic means

17.4.—(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.

Deemed time of submission, filing and service

17.5. A document is deemed to have been submitted, filed or served under these Rules on the day shown in the following table—

<i>Method</i>	<i>Deemed date of submission, filing or service</i>
First class post (or other service which provides for delivery on the next business day)	The second day after it was posted, left with, delivered to or collected by the relevant service provider provided that day is a business day; or, if not, the next business day after that day
Document exchange	The second day after it was left with, delivered to or collected by the relevant service provider provided that day is a business day; or, if not, the next business day after that day.
Delivering the document to or leaving it at an address permitted by these Rules	If it is delivered to or left at the address on a business day before 4.30 p.m., on that day; or in any other case, the next business day after that day
Electronic means	If the email or other electronic transmission is sent on a business day before 4.30 p.m., on that day; or in any other case, on the next business day after the day on which it was sent
Personal service	If the document is served personally before 4.30 p.m. on a business day, on that day; or in any other case, on the next business day after that day

PART 18

The court's case management powers

The court's general powers of case management

18.1.—(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.

Registrar's power to refer to chancellor

18.2. Where, in relation to proceedings in a consistory court, 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

18.3.—(1) Except where a rule or some other enactment provides otherwise, the court may exercise its powers (under this or any other Part) 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) Paragraphs (3) to (6) do not apply where the court makes, or proposes to make, an order of its own initiative under rule 3.7(4) (determination of question whether a particular matter may be undertaken without a faculty) or rule 16.7 (injunction or restoration order issued of court's own initiative).

PART 19

Costs

General

19.1.—(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 have been made.

Assessment of costs

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

Appeals against registrar's assessment

19.3.—(1) Any appeal against the registrar's assessment of costs relating to proceedings in a consistory court 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

19.4.—(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.

Security for costs

19.5.—(1) The court may order any party to give security for costs at any stage in proceedings if it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order.

(2) An order for security for costs may be made on the application of a party or of the court's own initiative.

(3) An application for an order for security for costs must be supported by written evidence.

(4) Where the court makes an order for security for costs, it will—

(a) determine the amount of the security; and

(b) direct—

(i) the manner in which, and

(ii) the time within which

the security must be given.

PART 20

Miscellaneous and General

Inspection of church etc.

20.1. The court 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

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

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

Amendment and setting aside in other circumstances

20.3.—(1) If it appears to the court just and expedient to do so, it 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

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

(2) If the court 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 court must appoint another suitably qualified person to sit as clerk in place of the registrar at the hearing.

Procedural questions

20.5.—(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 court is to resolve that question or to give such directions as appear to the court to be just and convenient.

(2) In resolving any question, or giving any directions, under paragraph (1) the court must be guided, so far as practicable, by the Civil Procedure Rules 1998(8).

Departure from prescribed forms

20.6.—(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 court may approve or give directions as to the forms that are to be used—

- (a) where a faculty is sought—

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

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

Electronic signatures

20.7. 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.

PART 21

Appeals

Application of Parts 21 to 27 to appeals

21.1. Parts 21 to 27 (in addition to the other Parts referred to in rule 2.1(2)) apply for the purpose of appeals from judgments, orders or decrees of consistory courts in faculty proceedings and in proceedings for an injunction or a restoration order.

Interpretation of Parts 21 to 27

21.2. In Parts 21 to 27—

“appeal notice” means grounds of appeal, a notice of appeal, a respondent’s notice, or a petition seeking a review of a finding of the Court of Ecclesiastical Causes Reserved;

“appellant” means a party who brings or seeks to bring an appeal and includes a party who seeks a review of a finding of the Court of Ecclesiastical Causes Reserved by a Commission of Review;

“the Dean” means the Dean of the Arches and Auditor and includes any person appointed to act as deputy Dean of the Arches and Auditor;

“diocesan registrar” and “diocesan registry” mean, respectively, the registrar of the consistory court and the registry of the diocese for which that court is constituted;

“filing”, in relation to a document, means delivering it by post or otherwise (including, where the registrar allows, by electronic means) to the registry;

“interim order” has the same meaning as “interlocutory order” in section 47(1A) of the Ecclesiastical Jurisdiction Measure 1963(9);

“lower court” means the court from whose decision an appeal is brought;

“party” means—

in relation to faculty proceedings, any of the persons referred to in rule 5.1, or

in relation to proceedings for an injunction or restoration order, the person who made the application for an injunction or restoration order and any person against whom an injunction or restoration order has been sought in those proceedings;

(9) 1963 No. 1. Relevant amendments were made by section 8 and Schedule 4 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (1991 No. 1), section 15 of the Church of England (Miscellaneous Provisions) Measure 2000 (2000 No. 1), section 44(2) and Schedule 1 of the Clergy Discipline Measure 2003 (2003 No. 3), section 145 and Schedule 17 of the Constitutional Reform Act 2005 (2005 c. 4) and sections 7, 8, 9 and 10 of the Care of Churches and Ecclesiastical Jurisdiction Measure 2015 (2015 No. 1).

“permission to appeal” means the leave an appellant requires in order to bring an appeal under section 7(2)(b) of the Ecclesiastical Jurisdiction Measure 1963;

“provincial court” means—

in the case of an appeal from the consistory court of a diocese in the Province of Canterbury, the Arches Court of Canterbury, or

in the case of an appeal from the consistory court of a diocese in the Province of York, the Chancery Court of York; and

“respondent” means—

any person other than the appellant who was a party to the proceedings in the lower court and who is affected by the appeal, and

any person who is permitted by the appeal court to be a party to the appeal.

PART 22

Destination of appeals and permission to appeal

Appeals from consistory courts

22.1.—(1) This rule explains—

- (a) the destination of an appeal from a judgment, order or decree of a consistory court—
 - (i) in faculty proceedings, or
 - (ii) in proceedings for an injunction or a restoration order; and
- (b) whether permission to appeal is needed.

(2) The appeal lies to the provincial court unless the appeal to any extent relates to matter involving doctrine, ritual or ceremonial.

(3) The appeal lies to the Court of Ecclesiastical Causes Reserved if the appeal to any extent relates to matter involving doctrine, ritual or ceremonial.

(4) Rules 23.1 and 23.2 make provision for determining whether an appeal relates to any extent to matter involving doctrine, ritual or ceremonial.

(5) An appellant who wishes to appeal to the provincial court under paragraph (2) needs permission to appeal. (See rule 22.2 and Part 23.)

(6) Permission is not needed to appeal to the Court of Ecclesiastical Causes Reserved under paragraph (3).

Test for permission to appeal to provincial courts

22.2. Permission to appeal to a provincial court may be granted only where the judge to whom the application for permission to appeal is made considers that—

- (a) the appeal would have a real prospect of success; or
- (b) there is some other compelling reason why the appeal should be heard.

Appeals from provincial courts

22.3.—(1) An appeal from a judgment of a provincial court in faculty proceedings (but not in proceedings for an injunction or restoration order) lies to the Judicial Committee of the Privy Council (“the Judicial Committee”).

(2) An appellant needs permission from the Judicial Committee to bring an appeal under paragraph (1).

(3) The procedure for appeals to the Judicial Committee (including the procedure for obtaining permission to appeal) is governed by the Judicial Committee (Appellate Jurisdiction) Rules 2009⁽¹⁰⁾.

(4) An appellant who applies to the Judicial Committee for permission to bring an appeal must at the same time file a copy of the application for permission and the proposed grounds of appeal with the registrar of the provincial court.

Review of findings of the Court of Ecclesiastical Causes Reserved

22.4.—(1) A finding of the Court of Ecclesiastical Causes Reserved may be reviewed by a Commission of Review.

(2) Permission is not needed to file a petition seeking a review under paragraph (1).

(3) Part 26 makes provision for the procedure to be followed in seeking a review of a finding of the Court of Ecclesiastical Causes Reserved by a Commission of Review.

PART 23

Appeals from consistory courts – initial procedure

Appeal from consistory court – initial application to chancellor

23.1.—(1) A party who wishes to appeal from a judgment, order or decree of a consistory court must make an application to the chancellor for—

- (a) a certificate stating whether or not the proposed appeal relates to any extent to matter involving doctrine, ritual or ceremonial; and
- (b) permission to appeal (if needed).

(2) An application under paragraph (1) must be—

- (a) made not later than 21 days after the date of the judgment, order or decree to which the appeal relates;
- (b) in Form 22; and
- (c) accompanied by the proposed grounds of appeal (which must clearly identify those parts of the judgment, order or decree of the court to which the grounds relate).

(3) An application under paragraph (1) is made by filing 2 copies of the application and the proposed grounds of appeal in the diocesan registry.

(4) Within 7 days of filing the application and the proposed grounds of appeal the appellant must serve a copy of the application and the proposed grounds of appeal on every other party.

Determination of initial application by chancellor

23.2.—(1) An application made under rule 23.1(1) is to be determined by the chancellor without a hearing unless the chancellor directs otherwise.

(2) The chancellor may—

⁽¹⁰⁾ Contained in the Schedule to The Judicial Committee (Appellate Jurisdiction) Rules Order 2009 (S.I. 2009/224). Relevant amendments were made by the Judicial Committee (Appellate Jurisdiction) Rules (Amendment) Order 2013 (S.I. 2013/246).

- (a) give directions for the purpose of determining the application on consideration of written representations, or
 - (b) if the chancellor has directed that the application be dealt with at a hearing, give directions for the purposes of the hearing.
- (3) The chancellor's determination of an application under rule 23.1(1) must be in Form 23 and must—
- (a) contain a certificate stating whether or not the proposed appeal relates to any extent to matter involving doctrine, ritual or ceremonial, and
 - (b) state the chancellor's reasons for the certificate.
- (4) The chancellor's determination must also state—
- (a) (i) that permission to appeal to the provincial court is granted or is refused, and
(ii) the chancellor's reasons for granting or refusing permission; or
 - (b) that permission to appeal is not needed because the appeal lies to the Court of Ecclesiastical Causes Reserved.
- (5) The diocesan registrar must send a copy of the chancellor's determination to—
- (a) the party who made the application under rule 23.1; and
 - (b) every other party.

Permission to appeal – renewed application to the Dean

23.3.—(1) Where the chancellor has issued a determination under rule 23.2 which states that permission to appeal to the provincial court is refused, the party who made the application under rule 23.1 may apply to the Dean for permission to appeal.

- (2) An application under paragraph (1) must be—
- (a) made not later than 14 days after the date on which the party received the chancellor's determination under rule 23.2;
 - (b) in Form 24; and
 - (c) accompanied by—
 - (i) the judgment, order or decree of the consistory court against which it is proposed to appeal;
 - (ii) the application and proposed grounds of appeal that were filed under rule 23.1(3);
 - (iii) the chancellor's determination in Form 23 under rule 23.2; and
 - (iv) a concise statement of the reasons relied on in support of the application to the Dean.
- (3) The application is made by filing 2 copies of the application and the other documents required by paragraph (2) with the registrar of the provincial court.
- (4) Within 7 days of filing the application the appellant must serve a copy of the application and the other documents required by paragraph (2) on—
- (a) every other party; and
 - (b) the diocesan registrar.

Determination of renewed application

23.4.—(1) An application made under rule 23.3 is to be determined by the Dean without a hearing unless the Dean directs otherwise.

- (2) The Dean may—

- (a) give directions for the purpose of determining the application on consideration of written representations, or
 - (b) if the Dean has directed that the application be dealt with at a hearing, give directions for the purposes of the hearing.
- (3) The Dean's determination of an application made under rule 23.3 must state the Dean's reasons.

Terms of permission to appeal

23.5.—(1) Where the chancellor or the Dean grant permission to appeal, the order granting permission may—

- (a) limit the issues to be considered on appeal; and
- (b) make the grant of permission subject to conditions (which may include conditions relating to costs).

(2) An appellant may apply to the Dean to vary or revoke any provisions of an order made by the chancellor under paragraph (1) when the appellant gives notice of appeal under rule 24.1.

PART 24

Appeals in the provincial courts

Permission granted by chancellor: filing and service of appeal documents

24.1.—(1) Where permission to appeal has been granted by the chancellor, the appellant must within 14 days of receiving the chancellor's determination under rule 23.2—

- (a) file 4 copies of the following with the registrar of the provincial court—
 - (i) notice of appeal in Form 25
 - (ii) the judgment, order or decree of the consistory court against which the appeal is brought;
 - (iii) the application in Form 22 and the proposed grounds of appeal that were filed under rule 23.1(3); and
 - (iv) the chancellor's determination in Form 23 under rule 23.2; and
- (b) serve a copy of the notice of appeal in Form 25 on every other party.

(2) Upon receiving notice of appeal under paragraph (1)(a) the registrar of the provincial court must send a copy of the notice of appeal to—

- (a) the diocesan registrar;
- (b) any person or body who was given special notice of the petition and sent representations or particulars of objection under rule 9.5 (Representations or objection by body given special notice) or who gave evidence under rule 13.3 (Evidence of Historic England and national amenity societies); and
- (c) the Church Buildings Council.

Permission granted by the Dean: service of appeal documents

24.2.—(1) Where permission to appeal has been granted by the Dean—

- (a) no notice of appeal is needed; but

- (b) the appellant must within 14 days of receiving the Dean's determination under rule 23.4 serve a copy of the determination on—
 - (i) every other party; and
 - (ii) the diocesan registrar.

(2) Where permission to appeal has been granted by the Dean, the registrar of the provincial court must send a copy of the application for permission to appeal under rule 23.3 and the Dean's determination under rule 23.4 to—

- (a) any person or body who was given special notice of the petition and sent representations under rule 9.5(1)(a) or who gave evidence under rule 13.3 (Evidence of Historic England and national amenity societies); and
- (b) the Church Buildings Council.

Grounds of appeal

24.3.—(1) Unless the Dean or the provincial court orders otherwise, the proposed grounds of appeal that were filed under rule 23.1(3) constitute the grounds of appeal to the provincial court.

(2) Paragraph (1) is subject to any provision of an order under rule 23.5—

- (a) limiting the issues to be considered on the appeal; and
- (b) imposing conditions on the grant of permission to appeal.

(3) Paragraph (1) is also subject to any order of the Dean or the provincial court giving permission for grounds of appeal to be amended.

Respondent's notice

24.4.—(1) A respondent may file a respondent's notice with the registrar of the provincial court.

(2) A respondent must file a respondent's notice if the respondent—

- (a) is seeking permission to appeal; or
- (b) wishes to ask the provincial court to uphold the decision of the consistory court for reasons different from or additional to those given by the consistory court.

(3) Any respondent's notice must be filed within 14 days of the date on which the respondent receives a copy of the notice of appeal in accordance with rule 24.1(1)(b) or the Dean's determination in accordance with rule 24.2(1)(b).

(4) A respondent who files a respondent's notice must serve a copy on the appellant and every other party not later than 7 days after it is filed.

Transfer of appeals

24.5.—(1) If the provincial court considers that an appeal to any extent relates to matter involving doctrine, ritual or ceremonial, it must transfer the appeal to the Court of Ecclesiastical Causes Reserved.

(2) Where the provincial court makes an order under paragraph (1), the registrar of the Court of Ecclesiastical Causes Reserved may give directions for the purpose of transferring the appeal (which may include directions dispensing with or modifying any of the provisions of Part 25).

Determination of appeals

24.6.—(1) The provincial court will hold a hearing for the purpose of determining an appeal under this Part unless the Dean makes an order under paragraph (2).

(2) The Dean may order that any appeal to which this Part applies is to be determined by the provincial court on consideration of written representations instead of at a hearing if both of the conditions in paragraph (3) are met.

(3) The conditions are—

- (a) the Dean considers that determination of the appeal on consideration of written representations is expedient; and
- (b) all of the parties have agreed in writing to such a course.

(4) Where an order is made under paragraph (2) the Dean may give directions for the purpose of determining the appeal on consideration of written representations.

(5) The Dean or the provincial court may at any time prior to the final determination of an appeal revoke an order made under paragraph (2).

(6) The provincial court's determination of an appeal pursuant to an order under paragraph (2) has the same effect for all purposes as if it had been made following a hearing.

PART 25

Appeals in the Court of Ecclesiastical Causes Reserved

Notice of appeal

25.1.—(1) A party may give notice of appeal in the Court of Ecclesiastical Causes Reserved (“the Court”) if the chancellor’s determination under rule 23.2 contains a certificate stating that the appeal to any extent relates to matter involving doctrine, ritual or ceremonial.

(2) The notice of appeal must—

- (a) be filed by the appellant with the registrar of the Court with 14 days of the appellant receiving the chancellor’s determination under rule 23.2;
- (b) be in Form 26.

(3) The notice of appeal must be accompanied by 6 copies of—

- (a) the judgment, order or decree of the consistory court against which the appeal is brought;
- (b) the application in Form 22 and the proposed grounds of appeal that were filed under rule 23.1(3); and
- (c) the chancellor’s determination in Form 23 under rule 23.2.

Service of appeal documents

25.2.—(1) Within 7 days of the date on which the notice of appeal is filed with the registrar of the Court the appellant must serve a copy of the notice of appeal on—

- (a) every other party; and
- (b) the diocesan registrar.

(2) The registrar of the Court must send a copy of the notice of appeal to—

- (a) any person or body who was given special notice of the petition and who sent representations under rule 9.5(1)(a) or who gave evidence under rule 13.3 (Evidence of Historic England and national amenity societies); and
- (b) the Church Buildings Council.

Grounds of appeal

25.3.—(1) Unless the Court orders otherwise, the proposed grounds of appeal that were filed under rule 23.1(3) constitute the grounds of appeal to the Court.

(2) Paragraph (1) is subject to any order of the Court giving permission for grounds of appeal to be amended.

Respondent's notice

25.4.—(1) A respondent may file a respondent's notice with the registrar of the Court.

(2) A respondent must file a respondent's notice if the respondent—

(a) wishes to appeal; or

(b) wishes to ask the Court to uphold the decision of the consistory court for reasons different from or additional to those given by the consistory court.

(3) Any respondent's notice must be filed within 14 days of the date on which the respondent receives a copy of the notice of appeal under rule 25.2(1).

(4) A respondent who files a respondent's notice must serve a copy on the appellant and every other party not later than 7 days after it is filed.

Transfer of appeals

25.5.—(1) If the Court considers that it has heard and determined an appeal so far as it relates to matter involving doctrine, ritual or ceremonial but the appeal also relates to other matter, it may—

(a) deal with the other matter if it considers it expedient to do so; or

(b) transfer the other matter to the provincial court to be heard and determined by that court.

(2) If the Court considers that no matter of doctrine, ritual or ceremonial is involved, it must transfer the appeal to the provincial court to be heard and determined by that court.

(3) Where the Court transfers a matter under paragraph (1)(b) or an appeal under paragraph (2), the registrar of the provincial court or the Dean may give directions for the purpose of transferring the matter or the appeal (which may include directions dispensing with or modifying any of the provisions of Part 24).

Determination of appeals

25.6.—(1) The Court will hold a hearing for the purpose of determining an appeal under this Part unless it makes an order under paragraph (2).

(2) The Court may order that any appeal to which this Part applies is to be determined on consideration of written representations instead of at a hearing if both of the conditions in paragraph (3) are met.

(3) The conditions are—

(a) the Court considers that determination of the appeal on consideration of written representations is expedient; and

(b) all of the parties have agreed in writing to such a course.

(4) Where an order is made under paragraph (2) the Court may give directions for the purpose of determining the appeal on consideration of written representations.

(5) The Court may at any time prior to the final determination of an appeal revoke an order made under paragraph (2).

(6) The Court's determination of an appeal pursuant to an order under paragraph (2) has the same effect for all purposes as if it had been made following a hearing.

Registrars

25.7.—(1) The registrar of the province of Canterbury and the registrar of the province of York are joint registrars of the Court.

(2) The duties of the registrar of the Court in relation to an appeal are to be carried out by the registrar of the province comprising the diocese from whose consistory court the appeal is brought unless the joint registrars determine otherwise in a particular case.

PART 26

Commission of Review

Filing of petition

26.1.—(1) A party may file a petition addressed to Her Majesty seeking a review of a finding of the Court of Ecclesiastical Causes Reserved.

(2) A petition under paragraph (1) must be—

- (a) filed with the Clerk of the Crown in Chancery within 28 days of the date on which the judgment of the Court of Ecclesiastical Causes Reserved is given or handed down;
- (b) in Form 27; and
- (c) accompanied by—
 - (i) the judgment of the Court of Ecclesiastical Causes Reserved;
 - (ii) the judgment, order or decree of the consistory court against which the appeal in the Court of Ecclesiastical Causes Reserved was brought;
 - (iii) the application in Form 22 and the proposed grounds of appeal that were filed under rule 23.1(3); and
 - (iv) the chancellor's determination in Form 23 under rule 23.2.

Appointment of Registrar of Commission of Review etc.

26.2.—(1) When a Commission of Review is appointed in response to a petition under rule 26.1, the Clerk of the Crown in Chancery must—

- (a) appoint a person to be registrar of the Commission of Review, and
- (b) provide the appellant and every other party with the name and address of the person appointed.

(2) The Clerk of the Crown in Chancery must provide the registrar of the Commission of Review with copies of the petition and the other documents that have been filed in accordance with rule 26.1(2).

Service of petition

26.3.—(1) Within 7 days of filing a petition under rule 26.1, the party who seeks the review must serve a copy of the petition on—

- (a) every other party;
- (b) the registrar of the Court of Ecclesiastical Causes Reserved; and

- (c) the diocesan registrar.
- (2) The registrar of the Commission of Review must send a copy of the petition to—
 - (a) any person or body who was given special notice of the petition for a faculty and who sent representations under rule 9.5(1)(a) or who gave evidence under rule 13.3 (Evidence of Historic England and national amenity societies); and
 - (b) the Church Buildings Council.

Respondent’s notice

26.4.—(1) A respondent may file a respondent’s notice with the registrar of the Commission of Review.

(2) A respondent must file a respondent’s notice if the respondent wishes to ask the Commission of Review to uphold a finding of the Court of Ecclesiastical Causes Reserved for reasons different from or additional to those given by that court.

(3) Any respondent’s notice must be filed within 14 days of the date on which the respondent receives a copy of the petition under rule 26.3(1).

(4) A respondent who files a respondent’s notice must serve a copy on the appellant and every other party not later than 7 days after it is filed.

PART 27

General provisions relating to appeals

Stay

27.1.—(1) Unless the appeal court or the lower court orders otherwise, the taking of any of the steps mentioned in paragraph (2) has the effect of staying the judgment, order or decree of the consistory court and any other lower court, except in the case of an order for an injunction.

(2) The steps referred to in paragraph (1) are—

- (a) the making of an application to the chancellor in accordance with rule 23.1;
- (b) the making of an application to the Dean in accordance with rule 23.3;
- (c) the filing of a petition addressed to Her Majesty in accordance with rule 26.1.

(a) (3) (a) A stay provided for by paragraph (1) ceases to have effect in accordance with the following provisions of this paragraph.

(b) Where an application was made to the chancellor under rule 23.1, the stay ceases to have effect—

(i) 15 days after the date on which the appellant receives a determination from the chancellor under rule 23.2 refusing permission to appeal (but this does not prevent a further stay arising if the appellant makes an application to the Dean under rule 23.3) or,

(ii) if permission to appeal is granted, or if the chancellor’s determination under rule 23.2 states that permission to appeal is not needed, 30 days after the date on which judgment in the appeal is given by the provincial court or the Court of Ecclesiastical Causes Reserved (as the case may be);

(c) Where an application was made to the Dean under rule 23.3, the stay ceases to have effect—

- (i) when the appellant receives a determination from the Dean under rule 23.4 refusing permission to appeal or,
 - (ii) if permission to appeal is granted, 30 days after the date on which judgment in the appeal is given by the provincial court;
 - (d) Where a petition is filed under rule 26.1, the stay ceases to have effect when the petition has been determined by the Commission of Review.
- (4) A stay provided for by paragraph (1) also ceases to have effect if the application or appeal in consequence of which it has arisen is wholly set aside, withdrawn or struck out.
- (5) The appeal court or the lower court may make an order staying the judgment, order or decree of the consistory court and any other lower court where a stay does not automatically arise under paragraph (1) or has ceased to have effect by virtue of paragraph (3) or (4).

Court files

- 27.2.**—(1) Paragraph (2) applies where the diocesan registrar receives—
- (a) copy of a notice of appeal against a decision of the consistory court in accordance with rule 24.1 or 25.2; or
 - (b) a determination of the Dean granting permission to appeal from the consistory court in accordance with rule 24.2.
- (2) Within 14 days of receiving the copy of the notice of appeal or the determination of the Dean, the diocesan registrar must send the file relating to the proceedings in the consistory court to the registrar of the appeal court.
- (3) Paragraph (4) applies where the registrar of the Court of Ecclesiastical Causes Reserved, in accordance with rule 26.3, receives a copy of a petition seeking a review of a finding of the Court of Ecclesiastical Causes Reserved by a Commission of Review.
- (4) Within 14 days of receiving the copy of the petition, the registrar of the Court of Ecclesiastical Causes Reserved must send the file relating to the proceedings in the consistory court and the file relating to the proceedings in the Court of Ecclesiastical Causes Reserved to the registrar of the Commission of Review.
- (5) Any party may, on reasonable notice to the registrar of the appeal court, inspect the file relating to proceedings in a lower court and have copies of documents contained in the file made at the expense of that party.
- (6) For the purposes of this rule—
- (a) the file relating to the proceedings in the consistory court includes all material in the diocesan registry generated by the petition, whether or not kept in separate files;
 - (b) the file relating to the proceedings in the Court of Ecclesiastical Causes Reserved includes all material in the possession of the registrar of that Court generated by the appeal to that Court, whether or not kept in separate files.

Amendment of appeal notice

- 27.3.**—(1) An appeal notice may not be amended without the permission of the appeal court.
- (2) If the appeal court gives permission for an appeal notice to be amended, permission may be given on such terms as the court thinks just (which may include terms relating to costs).

Withdrawal of appeal

- 27.4.**—(1) An appeal may not be withdrawn without the permission of the appeal court.

(2) Permission to withdraw an appeal may be given on such terms as the appeal court thinks just (which may include terms relating to costs).

Striking out grounds of appeal etc.

27.5.—(1) The appeal court may—

- (a) strike out the whole or part of an appeal notice;
- (b) set aside permission to appeal in whole or in part;
- (c) impose or vary conditions on which an appeal may be brought.

(2) The appeal court may only exercise its powers under paragraph (1) where there is a compelling reason for doing so.

(3) Where a party was present at a hearing at which permission was given, that party may not subsequently apply for an order that the appeal court exercise its powers under paragraph (1)(b) or (c).

Addition of parties

27.6.—(1) A person who was not a party to the proceedings in the lower court may become a party to an appeal if the appeal court gives permission.

(2) The appeal court may only exercise its power if the person seeking to become a party could have been a party to the proceedings in the consistory court.

(3) An application for permission under paragraph (1) must be accompanied by a notice setting out—

- (a) the basis on which it is said the person making the application could have been a party to the proceedings in the consistory court; and
- (b) the matters which that person proposes to argue in the appeal.

Interveners

27.7.—(1) The appeal court may give permission to any of the following to intervene in an appeal—

- (a) the Church Buildings Council,
- (b) Historic England,
- (c) a national amenity society,
- (d) any other body seeking to make submissions in the public interest, or
- (e) any other person the appeal court considers has a sufficient interest in the subject matter of the appeal.

(2) If the appeal court gives permission to intervene it may—

- (a) limit the matters on which the person or body given permission to intervene may make submissions,
- (b) give permission on terms relating to costs, and
- (c) give permission on such other terms as it thinks just (including by limiting permission to the making of written submissions only or by limiting the duration of oral submissions).

(3) An application for permission to intervene must be accompanied by a notice setting out the matters on which the person or body making the application wishes to make submissions.

Appeal court's powers

- 27.8.**—(1) In relation to an appeal, the appeal court has all the powers of the lower court.
- (2) The appeal court also has power to—
- (a) affirm, set aside or vary any judgment, order or decree of the lower court,
 - (b) refer any issue for determination by the lower court,
 - (c) order a new hearing;
 - (d) make an order for costs.
- (3) The appeal court may exercise its powers in relation to the whole or part of a judgment, order or decree of the lower court.

Interim orders in the provincial courts

27.9. Any interim order (including a direction under rule 11.6) may be made in proceedings in a provincial court either by the Dean sitting alone or by the court.

Registrar's power to refer to court

- 27.10.** Where a step is to be taken by the registrar of the appeal court—
- (a) the registrar may consult the court (or in the case of a provincial court, the Dean) before taking that step;
 - (b) the step may be taken by the court (or in the case of a provincial court, the Dean) instead of the registrar.

Hearing and determination of appeals

- 27.11.**—(1) Unless it orders otherwise, the appeal court will not receive—
- (a) oral evidence;
 - (b) evidence which was not before the lower court.
- (2) The appeal court will allow an appeal where the decision of the lower court was—
- (a) wrong; or
 - (b) unjust because of a serious procedural or other irregularity in the proceedings in the lower court.
- (3) The appeal court may draw any inference of fact which it considers justified on the evidence.
- (4) At the hearing of an appeal a party may not rely on a matter not contained in the party's appeal notice unless the appeal court gives permission.

PART 28

Citation, commencement, revocation and transitional provisions

Citation and commencement

- 28.1.**—(1) These Rules may be cited as the Faculty Jurisdiction Rules 2015.
- (2) They come into force on 1st January 2016.

Revocation

28.2. The Faculty Jurisdiction (Appeals) Rules 1998(11) and the Faculty Jurisdiction Rules 2013(12) are revoked (but subject to rule 28.3).

Transitional provisions

28.3.—(1) The Faculty Jurisdiction Rules 2013 continue to apply to proceedings in a consistory court that were started before the 1st January 2016 as if these Rules had not been made, save to the extent that the court orders otherwise.

(2) Paragraph (3) applies where an application for leave to appeal under section 7, or an application for a certificate under section 10(3), of the Ecclesiastical Jurisdiction Measure 1963 was made before 1st January 2016.

(3) The Faculty Jurisdiction (Appeals) Rules 1998 continue to apply to the proceedings as if these Rules had not been made, save to the extent that the appeal court orders otherwise.

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18th May 2015

Approved by the General Synod (with amendment)

11th July 2015

Jacqui Philips
Clerk to the Synod

(11) S.I. 1998/1713.
(12) S.I. 2013/1916.