



Faculty Jurisdiction Measure 1964 (repealed)

1964 No. 5

Jurisdiction in Faculty Cases

1 Vesting of privately owned parts of churches in the persons in whom the churches are vested.

- (1) In this section “building” means any building or structure forming part of and physically connected with a church and “incumbent” means the incumbent of the benefice comprising the parish in which the church is situated.
- (2) A court may in proceedings taken by an incumbent or parochial church council grant a faculty vesting any building in the person or body in whom the church is vested where the incumbent or parochial church council satisfies the court that:—
 - (i) the person in whom the church is vested is not the owner entitled to possession of the building or that there is reasonable doubt as to the ownership or right to possession thereof; and
 - (ii) the incumbent or parochial church council or some other person has taken all reasonable steps since, or shortly before, the commencement of the proceedings to communicate with all persons who may reasonably be supposed to have any rights of ownership or possession, whether absolute or limited, over the building; and
 - (iii) notwithstanding such reasonable steps there has been no communication with such person or persons or that all persons with whom communication has been made and who, on reasonable grounds, claim rights of ownership or possession over the building consent to the grant of a faculty under this section; and
 - (iv) no works of repair, redecoration or reconstruction have been executed upon the building by or on behalf of any person claiming any title thereto adverse to the title of the person in whom the church is vested during the seven years immediately preceding the commencement of the proceedings.

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- (3) In any proceedings for obtaining a faculty under this section the court may appoint a person being a solicitor to represent all persons other than those represented, known or unknown, who may have rights of ownership or possession over the building in question, and all proper costs of such solicitor in the proceedings shall be paid by the persons bringing the proceedings, unless otherwise ordered by the court.
- (4) Where a faculty under this section is granted the building specified therein shall, by virtue of such faculty and without any further or other assurance or conveyance, vest in the person in whom the church is vested as part of the church for all purposes and any rights of property of any other person therein shall thereupon determine.

Modifications etc. (not altering text)

C1 S. 1(3) amended (1.1.1992) by [S.I. 1991/2684](#), arts. 2, 4, **Sch.1**.

C2 S. 1(3) modified (23.12.2011) by [The Legal Services Act 2007 \(Designation as a Licensing Authority\) \(No. 2\) Order 2011 \(S.I. 2011/2866\)](#), arts. 1(2), 8(1), **Sch. 2**

^{F1}2 Faculties for demolition of churches.

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Textual Amendments

F1 S. 2 repealed (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 32(2), **Sch. 8** (with s. 31(6)); [Archbishops' Instrument dated 16.2.1993](#)

3 Faculties affecting monuments owned by persons withholding consent thereto.

- (1) This section shall apply to faculties for the moving, demolition, alteration or execution of other work to any monument erected, whether before or after the passing of this Measure, in or upon any church or other consecrated building or the curtilage thereof or upon consecrated ground other than consecrated burial grounds to which section eleven of the ^{M1}Open Spaces Act 1906 applies or has been applied.
- (2) [^{F2}Subject to subsection (3)] a court may grant a faculty to which this section applies:
 - (i) although the owner of the monument withholds his consent thereto or cannot be found after reasonable efforts to find him have been made; and
 - (ii) in respect of a monument erected under a faculty or affecting which any faculty has been granted, whatever the date of such faculty.
- [^{F3}(3) Where the court is satisfied that the matter is of such urgency that it would not be reasonable to require the petitioner for the faculty to seek the consent of the owner of the monument or to take the other steps referred to in subsection (2)(i), the court may grant a faculty notwithstanding that that consent has not been sought or that those steps have not been taken.]
- (4) For the purposes of this section “monument” includes a tomb, gravestone or other memorial and any kerb or setting forming part thereof, and “owner” means the person who erected the monument in question and, after his death, the heir or heirs at law of

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the person or persons in whose memory the monument was erected and “property” shall be construed accordingly.

Textual Amendments

- F2** Words in s. 3(2) substituted (1.1.2015) by [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\), ss. 7\(2\), 21\(2\)](#); S.I. 2014/2077, art. 2(2)
- F3** S. 3(3) substituted (1.1.2015) by [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\), ss. 7\(3\), 21\(2\)](#); S.I. 2014/2077, art. 2(2) (with Sch. para. 3)

Modifications etc. (not altering text)

- C3** The definition of "monument" in s. 3 applied (1.3.1993) by [Inspection of Churches Measure 1955 \(No. 1, SIF 21:8\), s.6](#) (as amended (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\), s. 3, Sch. 3 para. 5](#) (with s. 31(6))); Archbishops' Instrument dated 16.2.1993

Marginal Citations

- M1** 1906 c. 25.

[4 Sale of books in parochial libraries under a faculty.

- (1) Notwithstanding anything to the contrary contained in section ten of the ^{M2}Parochial Libraries Act 1708 any book in a parochial library ^{F4}. . . within the operation of that Act may be sold under the authority of a faculty, and in the case of every sale so authorised the proceeds of sale shall be applied for such of the ecclesiastical purposes of the parish as in such faculty may be directed. Before granting such a faculty the judge shall require the advisory committee to advise him thereon and shall consider such advice as the committee may tender to the court.
- (2) Any question whether a library is within the said Act ^{F4}. . . shall be finally determined by the [^{F5}Charity Commission].]

Textual Amendments

- F4** Words in s. 4(1)(2) repealed (1.3.1993) by virtue of [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\), ss. 32\(1\)\(2\), Sch. 7 para. 1, Sch.8](#) (with s. 31(6)); Archbishops' Instrument dated 16.2.1993
- F5** Words in s. 4(2) substituted (27.2.2007) by [Charities Act 2006 \(c. 50\), s. 79\(2\), Sch. 8 para. 46](#); S.I. 2007/309, art. 2, Sch.

Marginal Citations

- M2** 1708 c. 14.

^{F6}5 Payment of costs by party responsible for breach of law.

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Textual Amendments

- F6** s. 5 repealed (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), ss. 32(2), **Sch. 8** (with s. 31(6)); Archbishops' Instrument dated 16.2.1993

6 Licensed chapels may be made subject to faculty jurisdiction.

- (1) Where the bishop has [^{F7}, before the coming into force of section 11 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991,] licensed a building for public worship and he considers that circumstances have arisen which make it desirable that such building should be subject to the faculty jurisdiction he may by order direct that such building shall be subject to the jurisdiction of the court of the diocese during such period as may be specified in the order.
- (2) Any building in respect of which an order is made under this section shall, during the period specified in the order, be subject, together with its furnishings and contents, to the jurisdiction of the court specified in the order as though it were a consecrated church; but an order shall not render unlawful any act done before the making of the order nor shall require the issue of faculties confirming such acts.
- (3) The bishop shall send every order made under this section to the registrar of the diocese and the registrar shall register any order so made in the diocesan registry. There shall be payable to the diocesan registrar for registering such order, for permitting searches for and giving inspection and furnishing copies of any such order such fees as may from time to time be authorised by an order made under the [^{F8} Ecclesiastical Fees Measure 1986].
- (4) An order made under this section shall be revocable by the bishop at any time.

Textual Amendments

- F7** Words in s. 6(1) inserted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), ss. 32(2), **Sch. 7 para.2** (with s. 31(6)); Archbishops' Instrument dated 16.2.1993
- F8** Words substituted by [Ecclesiastical Fees Measure 1986 \(No. 2, SIF 21:1\)](#), **s. 11(2)**

7 Curtilages of churches.

- (1) For the avoidance of doubt it is hereby declared that where unconsecrated land forms, or is part of, the curtilage of a church within the jurisdiction of a court that court has the same jurisdiction over such land as over the church.
- (2) This section shall not render unlawful any act done or proceedings taken in good faith before the passing of this Measure nor shall require the issue of faculties confirming such acts.

Modifications etc. (not altering text)

- C4** S. 7 excluded (9.6.2009) by [Nottingham Express Transit System Order 2009 \(S.I. 2009/1300\)](#), arts. 1, **5(10)** (with [Sch. 13 paras. 14\(2\)](#), [14 para. 19](#))

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