



Care of Churches and Ecclesiastical Jurisdiction (Amendment) Measure 2015

2015 No. 1

5 Powers to prescribe matters not requiring a faculty

(1) After section 18A of the 1991 Measure (as inserted by section 4) insert—

“18B Power of Rule Committee to prescribe matters not requiring a faculty

- (1) Rules made under section 26(1) below may prescribe matters within the jurisdiction of a consistory court which may be undertaken without a faculty; but this is subject to subsection (7) below.
- (2) The rules may prescribe conditions which may be imposed on the undertaking of such matters; and different conditions may be prescribed in relation to different matters.
- (3) The conditions may in particular include—
 - (a) a condition that the archdeacon is consulted on the proposal to undertake the matter and that it may be undertaken without a faculty only if the archdeacon gives notice in writing that it may be undertaken without a faculty, and
 - (b) a condition that, if the archdeacon gives notice as mentioned in paragraph (a) above, the archdeacon may make the undertaking of the matter subject to such additional conditions as he may specify in the notice.
- (4) Where the archdeacon is consulted as mentioned in subsection (3)(a) above, the rules may require him to seek the advice of the advisory committee or such of its members or officers as he thinks fit before deciding whether to give notice as mentioned in subsection (3)(a) above.
- (5) Where the archdeacon decides not to give notice as mentioned in subsection (3)(a) above—

Status: This is the original version (as it was originally enacted).

- (a) the decision must be recorded in writing, and
 - (b) the matter in question may not be undertaken without a faculty.
- (6) Where the archdeacon is the incumbent or priest in charge of the benefice where it is proposed to undertake the matter, references to the archdeacon in subsections (3) to (5) above are to be construed as references to the chancellor.
- (7) Subsection (1) above does not apply to 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;
 - (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.
- (8) The reference in subsection (7)(e) above 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.
- (9) Any question as to whether a particular matter is, or is not, a matter that is prescribed by virtue of subsection (1) above is to be determined by the consistory court of the diocese concerned.
- (10) The definition of “partial demolition” that applies for the purposes of section 17 in relation to a church applies for the purposes of this section in relation to any building.

18C Power of chancellor to make further provision

- (1) The chancellor of a diocese may by order provide that any matter specified in the order may be undertaken without a faculty (in addition to the matters that are prescribed by virtue of section 18B(1) above).

- (2) An order under subsection (1) above—
 - (a) may specify a matter only if it could be prescribed by the Rule Committee by virtue of section 18B(1) above;
 - (b) may specify such conditions as may be prescribed by virtue of section 18B(2) above;
 - (c) may apply to the whole or a specified part of the diocese.
 - (3) Where the chancellor of a diocese considers that there are special circumstances affecting a parish or church, churchyard or other building or place in the diocese which justify doing so, he may by order provide that a matter specified in the order may not be undertaken without a faculty even though it is a matter that is prescribed by virtue of section 18B(1) above.
 - (4) The chancellor of a diocese shall seek the advice of the advisory committee before making an order under subsection (1) or (3) above, unless he is satisfied that the matter is sufficiently urgent to justify the making of an order without obtaining the committee's advice.
 - (5) The chancellor of a diocese shall send every order made by him under subsection (1) or (3) above to the registrar of the diocese; and the registrar shall register any order so made in the diocesan registry.
 - (6) Where an order is made under subsection (3) above, the registrar shall serve a copy of the order on—
 - (a) the minister and churchwardens of any parish affected by the order,
 - (b) the archdeacon of every archdeaconry in which a parish affected by the order is situated, and
 - (c) the secretary of the advisory committee.
 - (7) Any churchwardens on whom a copy of an order is served under subsection (6) above shall—
 - (a) keep it with the inventory, and
 - (b) insert a copy of it in the log-book.
 - (8) The chancellor of a diocese may by order vary or revoke an order made under subsection (1) or (3) above in relation to the diocese; and a reference in this section to such an order includes a reference to an order varying or revoking such an order.”
- (2) Omit section 11(8) of the 1991 Measure (duty of chancellor to give guidance on matters which may be undertaken without a faculty).