



Ecclesiastical Jurisdiction and Care of Churches Measure 2018

2018 No. 3

PART 4

FACULTY JURISDICTION

Cases where faculty not required

77 Power to specify matters in rules

- (1) Rules may specify matters within the jurisdiction of a consistory court which may be undertaken without a faculty; but this is subject to subsection (7).
- (2) The rules may specify conditions which may be imposed on the undertaking of such a matter; and different conditions may be specified 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), the archdeacon may make the undertaking of the matter subject to such additional conditions as he or she may specify in the notice.
- (4) The rules may require that, where the archdeacon is consulted as mentioned in subsection (3)(a), he or she must seek the advice of the advisory committee or such of its members or officers as he or she thinks fit before deciding whether to give notice as mentioned in subsection (3)(a).
- (5) Where the archdeacon decides not to give notice as mentioned in subsection (3)(a)—
 - (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 in which it is proposed to undertake the matter, references in subsections (3) to (5) to the archdeacon are to be read as references to the chancellor.
- (7) Subsection (1) does not apply to the following matters—
- (a) 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) works which are likely to affect the archaeological importance of a building or any archaeological remains within a building or its curtilage;
 - (c) works for all or part of which scheduled monument consent is required under the Ancient Monuments and Archaeological Areas Act 1979;
 - (d) works which involve the extension, demolition or partial demolition of a building or the erection of a new building;
 - (e) a matter which gives rise to a question of law or doctrine, ritual or ceremonial or which would, if undertaken, affect a person's legal rights;
 - (f) the exhumation or other disturbance of human remains;
 - (g) the reservation of a grave space;
 - (h) the sale or other disposal of an article of architectural, archaeological, artistic or historic interest;
 - (i) the sale of a book remaining in or belonging to a parochial library;
 - (j) the introduction of an aumbry or another receptacle used for the reservation of the sacrament of Holy Communion;
 - (k) the introduction of a monument, or the carrying out of work to a monument erected in or on, or on the curtilage of, a church or other consecrated building or on consecrated ground.
- (8) “Listed building” has the same meaning as in the Planning (Listed Buildings and Conservation Areas) Act 1990 (see section 1(5) of that Act).
- (9) The reference in subsection (7)(e) to a matter affecting a person's legal rights does not include a reference to the grant of a licence for the grazing of a churchyard by livestock.
- (10) Any question as to whether a particular matter is, or is not, a matter that is specified by virtue of subsection (1) is to be determined by the consistory court of the diocese concerned.
- (11) Section 62(5) (which defines references to partial demolition in relation to a church) applies for the purposes of this section in relation to any building.

78 Power of chancellor to specify matters

- (1) The chancellor of a diocese may by order provide that a matter specified in the order may be undertaken without a faculty (in addition to the matters that are specified in rules by virtue of section 77(1)).
- (2) An order under subsection (1)—
- (a) may specify a matter only if it could be specified in rules by virtue of section 77(1);
 - (b) may specify such conditions as may be specified in rules by virtue of section 77(2);

- (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 or she 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 specified by virtue of section 77(1).
- (4) The chancellor of a diocese must seek the advice of the advisory committee before making an order under subsection (1) or (3), unless he or she is satisfied that the matter is sufficiently urgent to justify making an order without obtaining the committee's advice.
- (5) The chancellor of a diocese must send each order he or she makes under subsection (1) or (3) to the registrar of the diocese; and the registrar must file each order in the diocesan registry.
- (6) Where an order is made under subsection (3), the registrar must serve a copy of the order on—
 - (a) the minister and churchwardens of every 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) must—
 - (a) keep it with the inventory maintained under section 49(1), and
 - (b) insert a copy of it in the log-book maintained under section 49(2).
- (8) The chancellor of a diocese may by order vary or revoke an order made under subsection (1) or (3) in relation to the diocese; and a reference in this section to an order under subsection (1) or (3) includes a reference to an order varying or revoking the order.