



# Ecclesiastical Jurisdiction and Care of Churches Measure 2018

2018 No. 3

## PART 4

### FACULTY JURISDICTION

#### *Powers of court*

#### **68 Conditions etc. on grant of faculty**

- (1) The conditions subject to which a faculty may be granted include in particular a condition requiring the work authorised or ordered by the faculty (or part of that work) to be carried out under the supervision of the archdeacon or another person nominated by the court granting the faculty.
- (2) In the case of a faculty authorising the disposal of an article, the conditions subject to which the faculty may be granted include in particular a condition requiring a specified period to elapse before the disposal takes place.
- (3) Where the court grants a faculty to a person other than an archdeacon and considers that the work authorised or ordered by the faculty should be carried out (whether or not by that person), it may also order—
  - (a) that, in default of that person carrying out the work, a faculty is to be granted to the archdeacon authorising him or her to carry out the work, and
  - (b) that, in that event, the expenses incurred by the archdeacon in carrying out the work are to be paid by that person.

#### **69 Costs orders against person responsible for act or default**

- (1) This section applies if, in proceedings brought by a person for obtaining a faculty, it appears to the court that another person who is party to the proceedings was

responsible wholly or partly for an act or default in consequence of which the proceedings were brought.

- (2) The court may order the whole or part of the costs and expenses of or consequent on the proceedings to be paid by the person responsible.
- (3) The costs and expenses which may be included in an order under this section include costs and expenses incurred in carrying out any work authorised or ordered by the faculty, so far as such costs and expenses have been occasioned by the act or default concerned.
- (4) The court may make an order under this section only if it is satisfied that the proceedings were brought no later than six years after the act or default was committed.

## **70 Special citation to add party to proceedings**

- (1) In proceedings for obtaining a faculty, the court may issue a special citation to add as a party to the proceedings a person alleged to be responsible wholly or in part for an act or default in consequence of which the proceedings were brought, even if the person lives outside the diocese concerned.
- (2) A special citation issued by the court under this section may require the person to whom it is issued to attend the court at the time and place specified in the citation.
- (3) The court may issue a citation under this section only if it is satisfied that the proceedings were brought no later than six years after the act or default was committed.
- (4) A failure to comply without a reasonable excuse with a requirement of a special citation issued by the court under this section is a contempt of that court.

## **71 Injunction**

- (1) This section applies where at any time, whether before or after proceedings for obtaining a faculty have been brought, it appears to the consistory court of a diocese that a person intends—
  - (a) to commit or continue to commit a relevant act, or
  - (b) to cause or permit the commission or continuance of a relevant act.
- (2) A relevant act is an act in relation to a church or churchyard in the diocese or an article appertaining to a church in the diocese which would be unlawful under ecclesiastical law.
- (3) The court may issue an injunction restraining the person from committing or continuing to commit, or from causing or permitting the commission or continuance of, the relevant act.
- (4) An injunction under this section may be issued—
  - (a) on an application by the archdeacon of the archdeaconry concerned,
  - (b) on an application by any other person appearing to the court to have sufficient interest in the matter, or
  - (c) on the court's own motion.
- (5) A failure to comply without a reasonable excuse with an injunction issued by the court under this section is a contempt of that court.

## **72 Restoration order**

- (1) This section applies where at any time, whether before or after proceedings for obtaining a faculty have been brought, it appears to the consistory court of a diocese that a person—
  - (a) has committed a relevant act, or
  - (b) has caused or permitted the commission of a relevant act.
- (2) A relevant act is an act in relation to a church or churchyard in the diocese or an article appertaining to a church in the diocese which is unlawful under ecclesiastical law.
- (3) The court may make an order (a “restoration order”) requiring the person to take such steps as the court considers necessary, within such time as the court specifies, for the purpose of restoring the position so far as possible to what it was immediately before the act was committed.
- (4) A restoration order may be made—
  - (a) on an application by the archdeacon of the archdeaconry concerned,
  - (b) on an application by any other person appearing to the court to have sufficient interest in the matter, or
  - (c) on the court’s own motion.
- (5) The court may make a restoration order only if it is satisfied that the proceedings for the order were brought no later than six years after the relevant act was committed.
- (6) A failure to comply without a reasonable excuse with a restoration order made by the court under this section is a contempt of that court.

## **73 Sections 69, 70 and 72: deliberate concealment of facts**

- (1) This section applies where, in proceedings brought by an archdeacon for obtaining a faculty or for a restoration order, a fact relevant to the bringing of the proceedings has been deliberately concealed from him or her.
- (2) The period of six years referred to in each of sections 69(4), 70(3) and 72(5) does not begin to run until the time when the archdeacon discovered the concealment or could with reasonable diligence have discovered it.
- (3) A deliberate commission of a breach of duty in circumstances in which it is unlikely to be discovered for some time amounts for the purposes of this section to deliberate concealment of the facts involved in the breach of duty.