



# Ecclesiastical Jurisdiction and Care of Churches Measure 2018

2018 No. 3

## PART 4

### FACULTY JURISDICTION

#### *Subject-matter of faculty*

#### **61 Vesting of privately owned parts of church**

- (1) The consistory court of a diocese may grant a faculty to vest a building forming part of, and physically connected with, a church in the diocese in the person in whom the church is vested.
- (2) Proceedings for obtaining a faculty under this section may be brought only by—
  - (a) the incumbent of the benefice to which the parish in which the church is situated belongs, or
  - (b) the PCC for that parish.
- (3) The court may grant a faculty under this section only if it is satisfied of the following four matters.
- (4) The first matter is that—
  - (a) the person in whom the church is vested is not the owner entitled to possession of the building, or
  - (b) there is reasonable doubt as to who has a right of ownership or possession over the building.
- (5) The second matter is that the incumbent or PCC, or some other person, has taken all reasonable steps since, or shortly before, the commencement of the proceedings to communicate with every person who may reasonably be supposed to have a right of ownership or possession (whether absolute or limited) over the building.

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*Changes to legislation: There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, Section 61. (See end of Document for details)*

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- (6) The third matter is that—
- (a) despite the steps mentioned in subsection (5) being taken, there has been no communication with any such person as is mentioned in that subsection, or
  - (b) every such person with whom communication has been made and who, on reasonable grounds, claims a right of ownership or possession over the building consents to the grant of the faculty.
- (7) The fourth matter is that, during the seven years immediately before the commencement of the proceedings, no works of repair, redecoration or reconstruction have been carried out on the building by or on behalf of a person claiming title to the building that is adverse to the title of the person in whom the church is vested.
- (8) In proceedings for obtaining a faculty under this section, the court may appoint a solicitor to represent all the persons, known or unknown, who—
- (a) may have a right of ownership or possession over the building, but
  - (b) are not represented.
- (9) The proper costs of a solicitor appointed under subsection (8) in the proceedings are to be paid by the person bringing the proceedings, unless the court orders otherwise.
- (10) Where a faculty is granted under this section, the building specified in it is, by virtue of the faculty itself and without any further or other assurance or conveyance, to 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 in the building terminate on the grant of the faculty.
- (11) The reference in subsection (8) to a solicitor includes a reference to a body which—
- (a) is recognised under section 9 of the Administration of Justice Act 1985, or
  - (b) holds a licence in force under Part 5 of the Legal Services Act 2007.

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**Commencement Information**

**II** S. 61 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, Section 61.