

---

STATUTORY INSTRUMENTS

---

**1998 No. 1713**

**ECCLESIASTICAL LAW, ENGLAND**

**The Faculty Jurisdiction (Appeals) Rules 1998**

<i>Made (Approved by the General Synod)</i>	- - -	<i>4th July 1998</i>
<i>Laid before Parliament</i>		<i>15th July 1998</i>
<i>Coming into force</i>	- - -	<i>1st August 1998</i>

In pursuance of section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991<sup>(1)</sup> the Rule Committee constituted in accordance with section 25 of the said Measure makes the following Rules:—

**PART I**  
**PRELIMINARY**

**Citation, commencement and revocation**

1.—(1) These Rules may be cited as the Faculty Jurisdiction (Appeals) Rules 1998 and shall come into force on the first day of August 1998.

(2) The Ecclesiastical Jurisdiction (Faculty Appeals) Rules 1965<sup>(2)</sup> are hereby revoked.

**Transitional**

2. Nothing in these Rules shall affect any appeal against a judgment of a consistory court given before the coming into force of these Rules or any petition in respect of a finding of the Court of Ecclesiastical Causes Reserved on such an appeal, and any such appeal or petition shall be dealt with, heard and determined as if these Rules had not been made.

**Interpretation**

3.—(1) In these Rules—

“appellate court” means the Arches Court of Canterbury or the Chancery Court of York, or the Court of Ecclesiastical Causes Reserved, as the case may be;

---

(1) 1991 No. 1.  
(2) SI 1965/251.

- “certificate” means a certification under section 10(3) of the Measure;
- “Commission” means a Commission of Review;
- “the Council” means the Council for the Care of Churches;
- “the Dean” means the Dean of the Arches and Auditor or his duly appointed Deputy;
- “faculty proceedings” means any cause of faculty within section 6(1)(b) or any proceedings for an injunction and a restoration order within section 6(1)(bb) of the Measure;
- “judgment” includes an order or decree, and any reference to the giving of judgment shall include a reference to the making or pronouncing of an order or decree;
- “leave to appeal” means leave to appeal to the Arches Court of Canterbury or the Chancery Court of York required by section 7(2) of the Measure;
- “the Measure” means the Ecclesiastical Jurisdiction Measure 1963(3);
- “other body” includes English Heritage and any national amenity society as defined in the Faculty Jurisdiction Rules 1992(4) and the local planning authority;
- “party to the faculty proceedings” means any person or body who is a party as a petitioner or as an interested person as defined in the Faculty Jurisdiction Rules 1992;
- “registrar of the appellate court”, in relation to appeals from the consistory court of any diocese, means the registrar of the province comprising that diocese, whose duties shall accordingly include the duty of acting as a registrar of the Court of Ecclesiastical Causes Reserved in relation to any such appeals, and includes a deputy registrar or person appointed under section 3(4C) of the Ecclesiastical Judges and Legal Officers Measure 1976(5);
- “registrar of the diocese” includes a deputy registrar or a person appointed under section 4(5C) of the Ecclesiastical Judges and Legal Officers Measure 1976.

(2) The Interpretation Measure 1925(6) and the Interpretation Act 1978(7) shall apply for the interpretation of these Rules as they apply for the interpretation of Measures of the General Synod.

## PART II

### APPLICATIONS TO DETERMINE THE COURT TO WHICH A FACULTY APPEAL LIES AND FOR LEAVE TO APPEAL

#### General

4. Any party to faculty proceedings in the consistory court who wishes to appeal against a judgment of the consistory court shall in accordance with these Rules first apply for and obtain—
- (a) a certificate from the chancellor pursuant to section 10(3) of the Measure stating whether or not a question of doctrine, ritual or ceremonial is involved in the proposed appeal; and
  - (b) leave to appeal to the Arches Court of Canterbury or the Chancery Court of York either from the chancellor, or from the Dean on appeal from a refusal of leave to appeal by the chancellor, in any case where the certificate given under (a) is to the effect that no question of doctrine, ritual or ceremonial is involved.

---

(3) 1963 No. 1.  
(4) SI 1992/2882.  
(5) 1976 No. 2. as amended by 1991 No. 1.  
(6) 1925 No. 1.  
(7) 1978 c. 30.

### **Application to Chancellor**

5.—(1) Any application for a certificate pursuant to section 10(3) of the Measure shall be made to the chancellor within 21 days from the date of delivery of the judgment if given or made orally, or from the date when the judgment was delivered in writing and sent to, or served upon, the parties to the faculty proceedings.

(2) An application for a certificate shall be made by notice in writing in Form 1 in the Appendix to these Rules and shall be accompanied by—

- (a) a short and concise statement in writing in numbered paragraphs identifying those parts of the judgment to which the proposed appeal relates; and
- (b) the proposed grounds of appeal in writing.

The matters set out in (a) and (b) may be relied upon in support of an application for leave to appeal in the event of the chancellor determining that no question of doctrine, ritual or ceremonial is involved, and no separate application for leave to appeal shall be required.

(3) Two copies of the application in Form 1 together with two copies of the documents referred to in paragraph (2)(a) and (b) of this rule shall be lodged with the registrar of the diocese and a copy of the application and the said documents shall be served upon each of the other parties to the proceedings within 7 days of the lodging of the application with the registrar.

(4) The chancellor may determine the application with or without a hearing and may make such order in relation to costs on the application, including the court costs, as he deems fit.

(5) If the chancellor directs that there shall be a hearing of the application it shall take place at a time and place fixed by the registrar of the diocese who shall give not less than 7 days' notice to the parties as to the time and place of the hearing.

(6) The parties may attend a hearing themselves or by their representatives (whether or not legally qualified) to make their submissions to the chancellor in support of the application for a certificate and for leave to appeal to the Arches Court of Canterbury or the Chancery Court of York.

(7) As soon as he has determined an application under this rule the chancellor shall—

- (a) give a certificate in writing in Form No. 2 in the Appendix to these rules and shall state in writing in summary form his reasons for so certifying; and
- (b) state whether or not he is granting leave to appeal to the Arches Court of Canterbury or the Chancery Court of York.

(8) The registrar of the diocese shall forthwith serve copies of such certificate and notice of decision to grant or refuse leave to appeal on all the parties.

### **Application to Dean for leave to appeal**

6.—(1) Where—

- (a) a party to any faculty proceedings before a consistory court desires to appeal against a judgment of that court;
- (b) the appeal lies under the Measure to the Arches Court of Canterbury or the Chancery Court of York; and
- (c) the chancellor refuses leave to appeal;

that party may apply to the Dean for leave to appeal.

(2) An application under paragraph (1) of this rule shall be made by notice in writing in Form No. 3 in the Appendix to these rules which shall be lodged with the registrar of the appellate court, and notice of which shall be served by the applicant on the other parties, not later than 14 days after the notice of the chancellor's refusal to grant leave to appeal is served on the applicant under paragraph (8) of rule 5.

- (3) The applicant shall lodge with the registrar of the appellate court 3 copies of—
- (a) the chancellor’s judgment or a note thereof approved by the chancellor in the case;
  - (b) the application and documents referred to in rule 5(2);
  - (c) a short and concise statement in writing in numbered paragraphs of the reasons relied upon by the applicant in support of the application to the Dean for leave to appeal;
  - (d) the certificate given by the chancellor under rule 5(7)(a).
- (4) The Dean may determine the application with or without a hearing and may make such order in relation to costs on the application, including the court costs, as he deems fit.
- (5) Before determining the application without a hearing the Dean shall give the parties not less than 14 days within which to make representations in writing to him in relation to the application.
- (6) If the Dean directs that there shall be a hearing of the application it shall take place at a time and place fixed by the registrar of the appellate court who shall give not less than 7 days' notice to the parties as to the time and place of the hearing.
- (7) The parties may attend a hearing themselves or by their representatives (whether or not legally qualified) to make their submissions to the Dean in support of or in opposition to the application for leave to appeal to the Arches Court of Canterbury or the Chancery Court of York.
- (8) Where an application is made under paragraph (1) of this rule any party other than the applicant may request the Dean to exercise the power to grant security for costs under rule 8, and any such request shall be by notice in writing which shall be lodged with the registrar of the appellate court, and copies of which shall be served on the other parties, not later than 10 days after a copy of the notice of the application under paragraph (1) of this rule is served on the party making the request.
- (9) Leave to appeal may be granted by the Dean on such terms, including the provision of security for the costs of any other party and the payment or reimbursement of court costs, fees and expenses already incurred in relation to the proceedings in the consistory court and the application for leave to appeal or to be incurred on the appeal as he deems just.
- (10) As soon as the Dean has determined any application under paragraph (1) of this rule the registrar of the appellate court shall serve notice of the Dean’s decision on each of the parties.

### PART III

#### PROCEDURE ON FACULTY APPEALS TO PROVINCIAL COURTS OR THE COURT OF ECCLESIASTICAL CAUSES RESERVED

##### **Lodging of appeal**

7.—(1) A party to any faculty proceedings before a consistory court who desires and is entitled under the Measure to appeal to an appellate court shall lodge his appeal in accordance with the following provisions of this rule not later than 21 days after whichever is applicable of the following dates—

- (a) in the case of an appeal to the Arches Court of Canterbury or the Chancery Court of York, the date on which notice is served on him that the chancellor or the Dean has granted leave to appeal; or
- (b) in the case of an appeal to the Court of Ecclesiastical Causes Reserved, the date on which a copy of the certificate by the chancellor is served on him

provided that the registrar of the appellate court may extend the period within which the notice of appeal must be lodged on an application made to him either within that period or after it has expired.

- (2) The lodging of an appeal under paragraph (1) of this rule shall be effected—

- (a) in the case of an appeal to the Court of Ecclesiastical Causes Reserved by lodging with the registrar of the appellate court 6 copies of the notice of appeal and of the chancellor's judgment or a note thereof approved by the chancellor and of the certificate of the chancellor given under rule 5(7)(a);
  - (b) in the case of an appeal to the Arches Court of Canterbury or the Chancery Court of York by lodging with the registrar of the appellate court 4 copies of—
    - (i) the notice of appeal;
    - (ii) the chancellor's judgment or a note thereof approved by the chancellor;
    - (iii) the certificate given by the chancellor under rule 5(7)(a);
    - (iv) the notice served on the appellant pursuant to rule 5(8) or 6(10) stating that the chancellor or the Dean has granted leave to appeal.
- (3) If an appeal is lodged under paragraph (2)(a) or (b) of this rule then the appellant shall in either case lodge two copies of the notice of the appeal with the registrar of the diocese and shall serve a copy of the notice of appeal on each of the parties to the faculty proceedings in the consistory court within 14 days of the lodging of the appeal.
- (4) The registrar of the appellate court shall inform the Council and any other body which gave evidence in the consistory court that an appeal has been lodged in the Court of Ecclesiastical Causes Reserved or in the Arches Court of Canterbury or in the Chancery Court of York as the case may be. On the direction of the Court of Ecclesiastical Causes Reserved or of the Dean the registrar of the appellate court shall notify any other body which did not participate in the faculty proceedings that an appeal has been lodged as aforesaid and such notification shall be given to such body in the manner and within the period of time so directed by the appellate court in question.
- (5) Notice of an appeal under paragraph (1) of this rule—
- (a) shall be in form No. 4 or 5 in the Appendix to these Rules as appropriate;
  - (b) shall set out the grounds of appeal and the relief which the party appealing seeks from the appellate court; and
  - (c) if the appeal relates to part only of the judgment of the consistory court, shall specify that part.
- (6) Except with the leave of the appellate court, the appellant shall not be entitled at the hearing of the appeal to rely on any grounds of appeal not stated in the notice of appeal, whether as originally lodged or, if it has been amended under rule 9, as so amended.
- (7) The registrar of the diocese—
- (a) shall cause one of the two copies of the notice of appeal lodged with him to be displayed for a period of two weeks on a notice board outside the church or place of worship to which the faculty proceedings related or, if they related to a churchyard, on a notice board outside the church or place of worship to which the churchyard belongs; and
  - (b) shall send or deliver to the registrar of the appellate court the court file maintained by the registrar of the diocese relating to the proceedings in the consistory court.
- (8) Any party to the proceedings and the Council and any other body shall be entitled on giving reasonable notice to the registrar of the appellate court to inspect the court file referred to in paragraph (7)(b) and the file maintained by the registrar of the appellate court relating to the appeal and to have copies of documents contained therein made at the expense of the party, the Council or body requesting them.
- (9) The appellate court may, on the application of the appellant, grant a stay of proceedings on the judgment of the consistory court.

### **Security for costs**

**8.**—(1) At any time on or after the lodging of an appeal under rule 7 (or, in the case of an appeal to the Arches Court of Canterbury or the Chancery Court of York, at any time on or after the granting of leave to appeal) and before the hearing of the appeal, the appellate court may, on the application of any other party, or of its own motion, order the appellant or party desiring to appeal to give such security as it thinks just for—

- (a) the costs of any other party;
- (b) the payment or reimbursement of court costs, fees and expenses already incurred in relation to proceedings in the consistory court and on the appeal or to be incurred on the appeal in such manner and within such period as the court may direct.

(2) A party who fails to comply with an order for security for costs under paragraph (1) of this rule shall not proceed with or take any further steps in relation to his appeal without the leave of the appellate court.

### **Amendment or withdrawal of appeal**

**9.** The appellate court may at any time at or before the hearing of any such appeal, on the application of the appellant—

- (a) allow the appeal to be withdrawn; or
- (b) allow the notice of the appeal to be amended

on such terms as the appellate court thinks just, which may in the case of amendment include the adjournment or postponement of the hearing.

### **Service on additional parties**

**10.**—(1) The appellate court may at any time at or before the hearing of any such appeal, on the application of any person who was not a party but might have been made a party to the proceedings in the consistory court, by order direct that a copy of the notice of appeal shall be served on him and that he shall be made a party to the appeal, and the appellate court may give such consequential directions and make such further orders as it thinks just.

(2) Any application under paragraph (1) of these rules shall be accompanied by a summary statement of the applicant's reasons for wishing to be a party to the appeal and it may be granted on such terms as the court thinks just, which may include the adjournment or postponement of the hearing.

### **Hearing for directions**

**11.**—(1) Upon receipt of a notice of appeal under rule 7 the registrar of the appellate court shall fix a time and place for a hearing for directions to be held not later than 28 days after the lodging of the notice of appeal and he shall give not less than 7 days' notice in writing thereof to the parties and bodies which participated in the faculty proceedings in the consistory court and any other person who has become a party pursuant to rule 10.

(2) The appellant and any other party or body which participated in the faculty proceedings in the consistory court and any other party to the appeal shall specify in writing any directions to be sought at the hearing for directions and shall give notice thereof in writing to the registrar of the appellate court in Form No. 6 in the Appendix to these Rules not less than 2 days before the date fixed for the hearing for directions and shall send a copy thereof to every other party or body as aforesaid.

(3) At the hearing for directions the registrar shall give such directions as he considers will facilitate the hearing of the appeal and, without prejudice to the generality thereof, may give directions as to all or any of the following—

- (a) the identification by the parties of such parts of the statements given in evidence, exhibits or other documents material to the issues to be considered at the hearing of the appeal;
- (b) the preparation of paginated bundles of material identified in (a) by one or more of the parties in sufficient numbers to provide for each member of the appellate court;
- (c) the lodging and service of the outline arguments of the parties and their lists of authorities (or photocopies of them), if any;
- (d) where an application is to be made to the appellate court to hear evidence not given in the consistory court, directions as to the preparation of a proof of evidence for the witness in question together with a short and concise written explanation as to—
  - (i) why the evidence was not called in the consistory court,
  - (ii) the relevance and importance of the further evidence in relation to the decision of the consistory court and the issues raised in the grounds of appeal;
- (e) the time within which any direction is to be complied with or within which any other thing is to be done.

(4) The registrar may, if he thinks fit, adjourn the hearing for directions to a date which shall be not later than 14 days after the date fixed for the hearing for directions and at the time of the adjournment he shall give notice to the parties to the appeal and to any other person or body who participated in the faculty proceedings in the consistory court of the date, time and place for the adjourned hearing.

#### **Further evidence**

**12.**—(1) At any time before or at the hearing of an appeal the appellate court may, on the application by notice in Form No. 7 in the Appendix to these Rules of a party or any other body which participated in the faculty proceedings in the consistory court, or any other party to the appeal, give leave for evidence to be placed before the appellate court which was not before the consistory court.

(2) In exercising its discretion the appellate court shall consider the proof of evidence and written explanation provided pursuant to a direction of the registrar under rule 11(3)(d), or pursuant to a direction to the same effect of the appellate court, and shall hear submissions from other parties or bodies in response to the application as it deems fit.

(3) If the appellate court decides to grant leave under paragraph (1) of this rule it shall do so on such terms, including such provision as to costs and any adjournment, as seems to it to be just in all the circumstances.

#### **Inspection**

**13.** The appellate court may of its own motion, or upon the application of any party, inspect any property or thing the subject of the appeal or concerning which any question arises in the appeal.

#### **Conservation interests**

**14.** Where the Council or any other body concerned with conservation matters (whether or not it was informed of or cited in respect of the faculty proceedings in the consistory court) applies to the appellate court to be heard, or to call evidence at the hearing of the appeal, the appellate court may give leave to the Council or any such body to be heard or to call evidence at the hearing but this power shall only be exercised in exceptional circumstances and on such terms as the court deems just.

### **Fixing time and place of hearing**

15.—(1) After the hearing for directions under rule 11 the registrar of the appellate court shall fix the time and place for the hearing of the appeal, and the court may at any time before the hearing, on an application by a party, or of its own motion, (subject to prior notice being given to all parties) alter the time or place of the hearing or both.

(2) The appellate court may at any time, on an application by a party or of its own motion, adjourn the hearing of the appeal.

(3) Except in so far as the appellate court directs otherwise or a party consents to receive a shorter period of notice, the registrar of the appellate court shall give to all the parties not less than 21 days' notice in writing of the time and place of the hearing of the appeal and not less than 7 days' notice in writing of any sitting of the appellate court to deliver judgment.

### **Hearing of Appeal**

16.—(1) On the hearing of any appeal the appellate court may—

- (a) draw any inference of fact which might have been drawn in the proceedings in the consistory court;
- (b) give any judgment or direction which could have been given in the consistory court or remit the matter for rehearing and determination in the consistory court by the chancellor or a deputy chancellor, as the court considers appropriate;
- (c) make such order for costs, having heard argument on the subject of costs from the parties at the conclusion of the hearing of the appeal, as the court deems fit.

(2) The judgment of the court may be delivered in writing and sent to the parties by the registrar of the appellate court, or delivered orally in the presence of not less than two members of the court as is deemed appropriate by the court.

(3) The registrar of the court shall give notice in writing to the registrar of the diocese of the judgment of the court and any directions given by it at the hearing of the appeal or upon delivering judgment.

## **PART IV**

### **PROCEDURE ON REVIEW BY COMMISSION OF REVIEW**

#### **Lodging of petition**

17.—(1) Where in any cause of faculty involving matters of doctrine, ritual or ceremonial any party desires that a finding of the Court of Ecclesiastical Causes Reserved should be reviewed by a Commission of Review the petition shall be lodged within 28 days after the finding to which the petition relates.

(2) The lodging of a petition shall be effected by lodging with the Clerk of the Crown in Chancery six copies of—

- (i) the petition in Form No. 8 in the Appendix to these Rules which shall state the grounds of the petition and, if the petition relates to part only of the finding of the Court of Ecclesiastical Causes Reserved, shall specify that part;
- (ii) the judgment containing the finding of the appellate court which is to be reviewed; and
- (iii) the certificate given by the chancellor under rule 5(7)(a).



(3) The petitioner shall lodge one copy of the petition with the registrar of the appellate court and two copies thereof with the registrar of the diocese and shall serve one copy thereof on every party to the proceedings.

(4) Except with the leave of the Commission of Review, the petitioner shall not be entitled on the hearing of the petition to rely on any grounds not stated in the petition whether as originally lodged or, if it is amended under rule 9 as applied by rule 18, as so amended.

(5) As soon as a petition under this rule has been lodged the Clerk of the Crown in Chancery shall appoint a person to be the registrar of the Commission of Review, and shall hand over the six copies of the petition to the registrar so appointed, who shall file one of them.

(6) The registrar of the appellate court shall send or deliver to the registrar of the Commission of Review the file relating to the proceedings in the appellate court and the court file maintained by the registrar of the diocese relating to the proceedings in the consistory court.

(7) Any party to the proceedings and the Council and any other body shall be entitled on giving reasonable notice to the registrar of the Commission of Review to inspect the files referred to in paragraph (6) and to have copies of documents contained therein made at the expense of the party, the Council or body requesting them.

(8) The registrar of the Commission of Review shall notify the parties of the names of the Commission and, if the cause involves a question of doctrine, the persons selected under section 48(3) of the Measure to sit with the Commissioners as advisers.

(9) The Commission may, on an application by the petitioner, grant a stay of proceedings on the judgment or finding of either of the courts below.

### **Application to Commission of rules relating to appellate courts**

**18.**—(1) Rules 7(7)(a), 8 to 11, 15, 16 and 19 to 24 of these Rules shall apply in relation to a petition under rule 17 as they apply in relation to appeals under rule 7 subject to such modifications as may be necessary.

## **PART V**

### **GENERAL PROVISIONS**

#### **Interlocutory applications**

**19.**—(1) This rule applies to—

- (a) applications made under these rules to a registrar; and
- (b) applications made under these rules, except under rules 10, 13 and 15, to an appellate court or Commission of Review otherwise than at the hearing of an appeal or petition.

(2) An application to which this rule applies shall be in writing in Form No. 9 in the Appendix to these Rules and shall be lodged with the registrar to whom it is made or the registrar of the court or Commission to which it is made, and a copy of the application shall be served on each other party.

(3) A registrar may grant any application made to him (other than an application for directions under rule 11) without a hearing, if there is lodged with the application a consent in writing signed by each of the other parties or his solicitor, or if the registrar is otherwise satisfied that none of the other parties opposes the application.

(4) In the case of any application lodged with a registrar under this rule (other than an application under paragraph (3)) the registrar shall fix a time and place for the hearing of the application and shall give not less than 7 days' notice in writing of that time and place to all the parties.

(5) An application under this rule may be granted or a direction may be made on an application under this rule on such terms as the person or body granting the application may think just.

(6) Any party may appeal from a decision of a registrar of an appellate court or Commission of Review to that appellate court or Commission.

(7) Any party wishing to appeal from a decision of a registrar under paragraph (6) of this rule shall lodge with the registrar not more than 7 days after the decision in question a notice of appeal in writing in Form No. 10 in the Appendix to these Rules, setting out the grounds of the appeal, and shall serve a copy of the notice of appeal on each other party, and the registrar shall fix the time and place of the hearing of the appeal and give not less than 7 days' notice in writing of that time and place to all the parties.

(8) Any application or appeal under this rule to the Arches Court of Canterbury or the Chancery Court of York may be heard and determined by the Dean.

(9) Any application or appeal under this rule to the Court of Ecclesiastical Causes Reserved may be heard and determined by such two of the judges of the Court of Ecclesiastical Causes Reserves as may be agreed between the judges of that court.

(10) Any application or appeal under these rules to a Commission of Review may be heard and determined by the presiding judge of the Commission of Review.

## Service of Document

**20.**—(1) Service of any document may be effected—

- (a) by leaving the document at the proper address of the person to be served; or
- (b) by sending it by post to that address; or
- (c) by leaving it at a document exchange as provided for in paragraph (3) of this rule; or
- (d) by FAX as provided for in paragraph (4) of this rule; or
- (e) only in such other manner as the registrar or the appellate court may direct.

(2) For the purpose of this rule and the Interpretation Act 1978 in its application to this rule, the proper address of any person on whom a document is to be served under this rule shall be—

- (a) his usual or last known address; or
- (b) the business address of the solicitor (if any) who is acting for him in the proceedings.

(3) Where—

- (a) the proper address for service includes a numbered box at a document exchange; or
- (b) there is inscribed on the writing paper of the party on whom the document is served (where such party acts in person) or on the writing paper of his solicitor (where such party acts by a solicitor) a document exchange box number, and such a party or his solicitor (as the case may be) has not indicated in writing to the party serving the document that he is unwilling to accept service through a document exchange,

service of the document may be effected by leaving the document addressed to that numbered box at that document exchange or at a document exchange which transmits documents every business day to that document exchange; and any document which is left at a document exchange in accordance with this paragraph shall, unless the contrary is proved, be deemed to have been served on the second business day following the day on which it is left.

(4) Service by FAX may be effected where

- (a) the party serving the document acts by a solicitor;
- (b) the party on whom the document is served acts by a solicitor and service is effected by transmission to the business address of such solicitor;

- (c) the solicitor acting for the party on whom the document is served has indicated in writing to the solicitor serving the document that he is willing to accept service by FAX at a specified FAX number and the document is transmitted to that number and for this purpose the inscription of a FAX number on the writing paper of a solicitor shall be deemed to indicate that such a solicitor is willing to accept service by FAX unless he has indicated in writing that he is not prepared to do so.

(5) Any document required by these Rules to be lodged with the registrar of the appellate court may be lodged by delivering the document at the address of the registrar or by sending it by post properly addressed to the registrar.

### **General Provisions**

**21.**—(1) Where anything is required by these rules to be done not more than a specified number of days or weeks after a specified act or event, the day on which the act or event occurred shall not be counted.

(2) The registrar of the appellate court, or the appellate court, may on an application made by the person or body concerned extend the time within which anything is required to be done by these rules, and the application may be made notwithstanding that the time has expired.

(3) The registrar or the appellate court may exercise the power under paragraph (2) on an ex parte application or may give directions for the giving of notice thereof and for a hearing.

(4) Any such application may be granted on such terms as the registrar or the appellate court thinks just.

### **Non-compliance with rules**

**22.** Non-compliance with any of these Rules shall not render any proceeding void unless the appellate court or Commission so directs but the proceedings may be set aside either wholly or in part, as irregular, or may be amended or otherwise dealt with in such manner and upon such terms as the court or Commission thinks fit.

### **Use of forms in Appendix**

**23.** Where any of these Rules require a document to be in a form set out in the Appendix to these rules, and that form is not in all respects appropriate, the rules shall be construed as requiring a form of the like character with such variations as circumstances may require to be used.

### **Procedural Questions**

**24.** Where in the exercise of the appellate jurisdiction in faculty matters any procedural question or issue arises or it is expedient that any procedural direction shall be given in order that the proceedings may expeditiously and justly be disposed of, and where no provision of these rules appears to the appellate court or Commission to be applicable, the court or commission shall resolve such question or issue, or shall give such directions as shall appear to be just and convenient, and in doing so the appellate court or commission shall be guided, so far as practicable, by the Rules of the Supreme Court for the time being in force.

## PART VI

### APPEAL TO HER MAJESTY IN COUNCIL

#### **Lodging of Appeal**

**25.** In any cause of faculty not involving matter of doctrine, ritual or ceremonial any party to the proceedings who wishes to appeal to Her Majesty in Council against the whole or part of a judgment of the Arches Court of Canterbury or the Chancery Court of York shall

- (a) within 28 days of the delivery of judgment in writing leave with the Registrar of the Judicial Committee of the Privy Council a petition of appeal in the form prescribed by the rules relating to the appellate jurisdiction of Her Majesty in Council on an appeal under the Measure; and
- (b) forthwith give notice in writing to every party to the proceedings of the presentation of the petition of appeal.

**26.** All matters relating to the appeal shall thereafter be governed by the Rules made by or applying to proceedings in the Judicial Committee of the Privy Council in exercise of the appellate jurisdiction of Her Majesty in Council.

Dated this twenty second day of May 1998

*Sheila Cameron  
John Bullimore  
William Hawkes  
Joanna Ingram  
Lionel Lennox  
Julian Litten  
John Owen  
+ Ian Petriburg:  
Frank Robson  
Ian Russell*

Approved by the General Synod this 4th day of July 1998

*Philip Mawer  
Secretary-General*

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

APPENDIX

FORMS

No. 1 *Application for a certificate and leave to appeal*

To the Registrar of the Consistory Court of .....  
Cause of faculty relating to [the church of] ..... in the parish of  
.....

Petitioner(s) (state name(s))  
Other parties (state names and status)

We [I] ..... of ..... being petitioner(s) in (a party to) the  
above cause hereby apply to the chancellor for

(1) a certificate under section 10(3) of the Ecclesiastical Jurisdiction Measure 1963 stating  
whether or not the above cause involves a question of doctrine, ritual or ceremonial.

(2) leave to appeal to the Arches Court of Canterbury [the Chancery Court of York] against the  
judgment (order or decree) dated ..... 19 ... in the above cause of faculty.

The proposed grounds of appeal are set out in a statement accompanying this application together  
with a short and concise statement in numbered paragraphs identifying those parts of the judgment  
(order or decree) to which the proposed appeal relates.

Dated this ..... day of ..... (month) ..... (year)

Signature of the applicant(s)  
or solicitor

No. 2 *Certificate of Chancellor under s.10(3)*

Consistory Court of .....

Cause of faculty relating to [the church of] ..... in the parish of

Petitioner(s) (state name(s))  
Other parties (state names and status)

I ..... of ..... being the Chancellor (Deputy Chancellor) of  
the diocese of ..... hereby certify that the above cause involves  
[does not involve] a question of doctrine, ritual or ceremonial. My reasons in summary form are  
as follows:

- (1)
- (2)
- (3)

Dated this ..... day of ..... (month) ..... (year)

Signature of the chancellor (deputy chancellor)

No. 3 *Application for leave to appeal to the Arches Court of Canterbury or the Chancery Court of York*

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

To the Registrar of the Arches Court of Canterbury [the Chancery Court of York]

Consistory Court of .....

Cause of faculty relating to [the church of] ..... in the parish of .....

Petitioner(s) (state name(s))

Other parties (state name and status)

We (I) ..... of ..... being petitioner(s) in [a party to] the above cause hereby apply to the Dean of the Arches and Auditor for leave to appeal against the judgment [part of the judgment] of the chancellor given on the ..... day of ..... (month) ..... (year) in the above cause.

By certificate dated the ..... day of ..... (month) ..... (year) the Chancellor [Deputy Chancellor] certified that the above cause did not involve a question of doctrine, ritual or ceremonial.

The documents accompanying this application are

- (a) a copy of the Chancellor's judgment dated the ..... day of ..... (month) ..... (year).
- (b) copies of the application and documents referred to in rule 5(2)
- (c) a copy of the certificate given by the chancellor
- (d) a short and concise statement in writing in numbered paragraphs of the reasons why leave to appeal should be granted.

Dated this ..... day of ..... (month) ..... (year)

Signature of appellant(s) or solicitor

No. 4 *Notice of appeal from consistory court to the Arches Court of Canterbury or the Chancery Court of York*

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

To the Registrar of the Arches Court of Canterbury [the Chancery Court of York]

Consistory Court of .....

Cause of faculty relating to [the church of] ..... in the parish of .....

Petitioner(s) (state name(s))

Other parties (state name and status)

We (I) ..... of ..... being petitioner(s) [a party to] the above cause hereby give notice that pursuant to leave granted by the Dean and Auditor [by the chancellor] on the ..... day of ..... (month) ..... (year). We (I) appeal to the Arches Court of Canterbury [Chancery Court of York] from the judgment [part of the judgment] of the chancellor given on the ..... day of ..... (month) ..... (year) in the above cause whereby it was adjudged that

(here set out effect of judgment or the part appealed from)

The grounds of the appeal are:-

- (1)
- (2)
- (3)

The relief which is sought from the court is:-

- (1)
- (2)

By certificate dated the ..... day of ..... (month) ..... (year) the Chancellor [Deputy Chancellor] certified that the above cause did not involve a question of doctrine, ritual or ceremonial.

Dated this ..... day of ..... (month) ..... (year)

Signature of the appellant(s)  
or solicitor

No. 5 Notice of appeal from consistory court to the Court of Ecclesiastical Causes Reserved

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

To the Registrar of the Court of Ecclesiastical Causes Reserved

Consistory Court of .....

Cause of faculty relating to [the church of] ..... in the parish of .....

Petitioner(s) (state name(s))

Other parties (state name and status)

We (I) ..... of ..... being petitioner(s) [a party to] the above cause hereby give notice that we (I) appeal to the Court of Ecclesiastical Causes Reserved from the judgment (part of the judgment) of the Chancellor given on the ..... day of ..... (month) ..... (year) in the above cause whereby it was adjudged that

(here set out effect of judgment or the part appealed from)

The grounds of the appeal are:-

- (1)
- (2)
- (3)

The relief which is sought from the court is:-

- (1)
- (2)

By certificate dated the ..... day of ..... (month) ..... (year) the Chancellor [Deputy Chancellor] certified that the above cause involved a question of doctrine, ritual or ceremonial.

No. 6 *Notice of application for directions*



**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

To the Registrar of the Arches Court of Canterbury [the Chancery Court of York] [the Court of Ecclesiastical Causes Reserved] [The Commission of Review]

Appeal from the Consistory Court of .....

Cause of faculty relating to [the church of] ..... in the parish of .....

Petitioner(s) (state names)

Other parties (state name and status)

We (I) ..... of ..... being petitioner(s) [a party to] the above cause hereby give notice that at the hearing for directions to be held on the ..... day of ..... (month) ..... (year) we (I) will be seeking directions on the following matters:-

- (1)
- (2)
- (3)

A copy of this notice is being sent to every other party or body which participated in the consistory court and any other person who has become a party pursuant to rule 10 not less than 2 days before the date fixed for the hearing for directions.

Dated this ..... day of ..... (month) ..... (year)

Signature of applicant(s)  
or solicitor

No. 7 *Notice of application for leave to give further evidence*

To the Registrar of the Arches Court of Canterbury [the Chancery Court of York] [the Court of Ecclesiastical Causes Reserved] [The Commission of Review]

Appeal from the Consistory Court of .....

Cause of faculty relating to [the church of] ..... in the parish of .....

Petitioner(s) (state names)

Other parties (state names and status)

We (I) ..... of ..... being [the petitioner(s) in] [a party to] the above cause hereby apply to the court [the Commission] for leave for evidence to be placed before the Court which was not before the consistory court.

The documents accompanying this application are:-

- (a) a draft proof of evidence of the witness to whom this application applies;
- (b) a short and concise explanation as to
  - (i) why the evidence was not called in the consistory court;
  - (ii) the relevance and importance of the further evidence in relation to the decision of the consistory court and the issues raised in the grounds of appeal.

Dated this ..... day of ..... (month) ..... (year)

Signature of applicant(s)  
or solicitor

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

No. 8 *Petition for review by Commission of Review of finding of Court of Ecclesiastical Causes Reserved*

To the Clerk of the Crown in Chancery

Court of Ecclesiastical Causes Reserved

Consistory Court of .....

Cause of faculty relating to [the church of] in the parish of .....

Petitioner (i.e. the original petitioner for the faculty—state name)

Other parties (state names and status).

We (I) being [the petitioner(s) in] [a party to] the above cause, hereby petition for a review by a Commission of Review of the finding made on the day of ..... (month) ..... (year) by the Court of Ecclesiastical Causes Reserved on an appeal from the judgment of the Consistory Court of ..... in the above cause.

The Court of Ecclesiastical Causes Reserved found

(Here state the effect of the finding and, if only part of the finding is appealed from, specify that part)

The grounds of the petition are:-

(Here state the grounds of the petition)

Dated this ..... day of ..... (month) ..... (year).

Signature of the petitioner(s) or his solicitor

No. 9 *Interlocutory Application*

(State appropriate Court or Commission to which or to the registrar of which the application is made as Form No. 6)

Consistory court of .....

Cause of faculty relating to [the church of] in the parish of

Petitioner(s) (state name(s))

Other parties (state names)

We (I) ..... of ..... being the petitioner(s) in [a party to] the above cause hereby apply to the registrar [the above Court or Commission] for (here state the relief sought).

Dated this ..... day of ..... (month) ..... (year)

Signature of applicant or his solicitor

No. 10 *Notice of appeal to Court or Commission from registrar's decision*

(State appropriate court or commission to which the appeal is made with Heading as in Form 9)

We (I) ..... of ..... being the petitioner(s) in [a party to] the above cause hereby give notice that we (I) appeal from the decision of the registrar dated ..... granting [refusing] an application for (here state nature of application) to the (here state the Court or Commission to whom the appeal is made), on the following ground[s]:-

(Here state ground[s] of appeal)

Dated this ..... day of ..... (month) ..... (year)

Signature of appellants or his solicitor

## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules relate to appeals from judgements given in the consistory courts in faculty cases. They revise and update the Ecclesiastical Jurisdiction (Faculty Appeals) Rules 1965, which are consequently revoked. In particular, they take account of the provisions regarding faculty proceedings which were introduced by the Care of Churches and Ecclesiastical Jurisdiction Measure 1991.