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STATUTORY INSTRUMENTS

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**2015 No. 1568**

**The Faculty Jurisdiction Rules 2015**

**PART 3**

**Matters not requiring a faculty**

**Scope and interpretation**

**3.1.**—(1) Rule 3.2 and Schedule 1 provide for the matters prescribed in List A to be undertaken without a faculty.

(2) Rule 3.3. and Schedule 1 provide for the matters prescribed in List B to be undertaken without a faculty.

(3) Rule 3.4 provides for additional matters prescribed by the chancellor to be undertaken without a faculty.

(4) Rules 3.2 to 3.4 are subject to rules 3.5 to 3.7 (which exclude certain matters from being undertaken without a faculty and make other supplementary provision).

(5) In this Part “authorised person” means—

- (a) a person acting on behalf of the minister and churchwardens of the parish concerned (or, if there is no minister, on behalf of the churchwardens);
- (b) in relation to a building which is included in the list maintained by the Church Buildings Council under section 1(1) of the Care of Places of Worship Measure 1999, the relevant person or body or a person acting on their behalf; or
- (c) a person designated by the chancellor in respect of a parish or other place for the purposes of this Part.

(6) For the purposes of Schedule 1 and work to an electrical installation or electrical equipment, “accredited certification scheme” means a scheme of product conformity certification for industrial and commercial electrical work which applies to the work that is to be carried out and which is accredited by the United Kingdom Accreditation Service (UKAS).

(7) If another body is appointed as the national accreditation body for the purposes of Article 4(1) of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9th July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93(1), the reference in paragraph (6) to UKAS is to be read as a reference to that body.

**Undertaking matters in List A without a faculty**

**3.2.** An authorised person may undertake any matter prescribed in the first column of Table 1 in Schedule 1 (“List A”) without a faculty subject to any conditions that are specified in relation to that matter in the corresponding place in the second column of the Table.

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(1) O.J. L218, 13.8.2008, pp 30-47. The United Kingdom Accreditation Service was appointed as the national accreditation body by S.I. 2009/3155.

### **Undertaking matters in List B without a faculty**

**3.3.**—(1) An authorised person may undertake any matter prescribed in the first column of Table 2 in Schedule 1 (“List B”) without a faculty—

- (a) if the archdeacon has been consulted on the proposal to undertake the matter and has given notice in writing that it may be undertaken without a faculty; and
- (b) subject to—
  - (i) any conditions that are specified in relation to that matter in the corresponding place in the second column of Table 2; and
  - (ii) any additional conditions imposed by the archdeacon under paragraph (2)(b).

(2) Where the archdeacon is consulted under paragraph (1)(a) on the proposal to undertake a matter, the archdeacon—

- (a) must seek the advice of the Diocesan Advisory Committee or such of its members or officers as the archdeacon thinks fit before deciding whether to give notice that it may be undertaken without a faculty; and
- (b) may make the undertaking of the matter subject to additional conditions specified by the archdeacon in the notice.

(3) A notice given by the archdeacon under paragraph (1)(a) must specify the proposals which may be undertaken without a faculty.

(4) The archdeacon must retain a copy of every notice given under paragraph (1)(a) and must also send a copy to—

- (a) the registrar of the diocese for filing in the diocesan registry; and
- (b) the secretary of the Diocesan Advisory Committee.

(5) If the archdeacon declines to give notice under paragraph (1)(a) that a proposal may be undertaken without a faculty the archdeacon must inform the applicants that they may, if they wish, petition the court for a faculty to authorise the proposal.

(6) If the archdeacon is the incumbent or priest in charge of a benefice where it is proposed to undertake a matter that is prescribed in List B, references in this rule to the archdeacon are to be read as if they were references to the chancellor.

### **Additional matters which may be undertaken without a faculty**

**3.4.**—(1) An order made by the chancellor under section 18C(1) of the Measure (which provides that, in addition to the matters prescribed in List A and List B, any matter specified in the order may be undertaken without a faculty) is known as “an additional matters order”.

(2) The registrar of the diocese must—

- (a) register every additional matters order (or order that varies or revokes an additional matters order) in the diocesan registry;
- (b) arrange for its publication on the diocesan website;
- (c) send a copy to—
  - (i) every archdeacon to whose archdeaconry the order applies;
  - (ii) the secretary of the Diocesan Advisory Committee; and
  - (iii) the secretary of the Church Buildings Council.

(3) Where the chancellor has made an additional matters order, any matter specified in the order may be undertaken without a faculty in the diocese, or the part of the diocese, to which the order applies; but this is subject to paragraph (4).

(4) Where an additional matters order specifies conditions in relation to a matter (including any condition as to who may undertake the matter), the matter may be undertaken without a faculty only if those conditions are complied with.

### **Excluded matters – general**

**3.5.**—(1) Rules 3.2 to 3.4 do not permit the undertaking of 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<sup>(2)</sup>;
- (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<sup>(3)</sup>.

(2) The reference in paragraph (1)(e) 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.

(3) Where it is proposed to undertake a matter which falls within paragraph (1) a faculty (or an interim faculty under Part 15) must be sought.

### **Excluded matters orders**

**3.6.**—(1) An order made by the chancellor under section 18C(3) of the Measure (which provides, in respect of a parish, church, churchyard or other building or place in the diocese, that a matter specified in the order may not be undertaken without a faculty even though it is prescribed in List A or List B) is known as “an excluded matters order”.

(2) The registrar of the diocese must—

- (a) register every excluded matters order (or order that varies or revokes an excluded matters order) in the diocesan registry;
- (b) arrange for its publication on the diocesan website;
- (c) send a copy to—

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(2) 1979 c. 46.

(3) 1964 No. 5.

- (i) the minister and churchwardens of any parish affected by the order;
- (ii) the archdeacon of every archdeaconry in which a parish affected by the order is situated;
- (iii) the secretary of the Diocesan Advisory Committee; and
- (iv) the secretary to the Church Buildings Council.

(3) Any churchwardens who are sent a copy of an excluded matters order (or order that varies or revokes an excluded matters order) by the registrar of the diocese must keep it with the inventory, and insert a copy in the log book, maintained by them under section 4(1) of the Measure.

(4) Where the chancellor has made an excluded matters order and it is proposed to undertake a matter specified in the order in respect of the parish, church, churchyard or other building or place in the diocese to which the order relates, a faculty (or an interim faculty under Part 15) must be sought.

### **Supplementary**

**3.7.—**(1) The fact that a matter may be undertaken without a faculty under this Part does not remove that matter from the jurisdiction of the court.

(2) The court may accordingly give any judgment, grant any faculty or make any order or decree (including making the grant of a faculty subject to a condition) in respect of that matter as it might give, grant or make in respect of any other matter which is within the jurisdiction of the court.

(3) A matter may not be undertaken without a faculty under this Part if undertaking that matter would be in breach of—

- (a) any condition subject to which a faculty has been granted,
- (b) the terms of any injunction or restoration order, or
- (c) the terms of any undertaking given to the court.

(4) Any question as to whether a particular matter is or is not a matter that may be undertaken without a faculty under this Part is to be determined by the court.

(5) The determination may be made by the court on its own initiative or on the application of—

- (a) an authorised person,
- (b) in the case of a matter specified in an additional matters order, a person who may undertake the matter under the order, or
- (c) the archdeacon.

(6) The court will determine the question without a hearing on consideration of such written representations (if any) as the court thinks fit unless the court orders that the question be determined at a hearing.