

2022 No. 155

ECCLESIASTICAL LAW, ENGLAND

The Faculty Jurisdiction (Amendment) Rules 2022

Made (approved by General Synod) 9th February 2022

Laid before Parliament 23rd February 2022

Coming into force 1st July 2022

The Rule Committee, in exercise of the powers conferred by sections 77(1) to (7) and 83(1) and (2) of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018(a), makes the following Rules:

Citation, commencement and interpretation

- 1.—(1) These Rules may be cited as the Faculty Jurisdiction (Amendment) Rules 2022.
(2) These Rules come into force on 1st July 2022.
(3) In these Rules, a reference to a numbered rule or Schedule is a reference to the rule or Schedule so numbered in the Faculty Jurisdiction Rules 2015(b).

Requirement to have due regard to net zero guidance

- 2.—(1) In rule 2.2 (interpretation), in paragraph (1), at the appropriate place insert—
““net zero guidance” means guidance issued by the Church Buildings Council under section 55 of the Dioceses, Pastoral and Mission Measure 2007(c) on reducing carbon emissions;”
- (2) In rule 3.3 (undertaking List B matters without a faculty), after paragraph (1) insert—
“(1A) If the proposal involves a matter to which net zero guidance applies, the proposal must include an explanation of how the applicants, in formulating the proposal, have had due regard to that guidance.”
- (3) In rule 4.2 (documents etc. to be submitted to Diocesan Advisory Committee), in paragraph (2), in sub-paragraph (b), after “the works or proposals” insert “including, in the case of matters to which net zero guidance applies, an explanation of how the intending applicants, in formulating the proposals, have had due regard to that guidance”.
- (4) In rule 4.9 (notification of Diocesan Advisory Committee’s final advice), after paragraph (7) insert—
“(7A) In the case of works or proposals involving matters to which net zero guidance applies, the Committee’s advice must include a statement of—

(a) 2018 No. 3.

(b) S.I. 2015/1568. Relevant amendments have been made by the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 and S.I. 2019/1184.

(c) 2007 No. 1.

- (a) whether, in its opinion, the explanation under rule 4.2(2)(b) is adequate, and
- (b) if its opinion is that the explanation is not adequate, its reasons for that opinion.”

(5) In rule 5.5 (documents to accompany faculty petition), in paragraph (3), in sub-paragraph (e), after “works or other proposals” insert “including, in the case of matters to which net zero guidance applies, an explanation of how the petitioner, in formulating the proposals, has had due regard to that guidance”.

(6) In Schedule 1 (matters which may be undertaken without a faculty), after the text entitled “General notes” insert—

“Notes on net zero guidance

Those proposing to undertake a matter without a faculty should make themselves aware of net zero guidance (that is, guidance issued by the Church Buildings Council under section 55 of the Dioceses, Pastoral and Mission Measure 2007 on reducing carbon emissions).

Where a matter to which net zero guidance applies is included in List B, the proposal sent to the archdeacon must include an explanation of how the applicants, in formulating the proposal, have had due regard to that guidance.”

(7) In Schedule 3, in Form 2 (notification of Diocesan Advisory Committee’s final advice), before “In the opinion of the Committee the work or part of the work proposed is / is not likely to affect” insert—

“[The works or proposals involve matters to which net zero guidance applies (that is, guidance issued by the Church Buildings Council under section 55 of the Dioceses, Pastoral and Mission Measure 2007 on reducing carbon emissions). In the opinion of the Committee, your explanation of how, in formulating the works or proposals, you have had due regard to net zero guidance is / is not adequate

[and the Committee’s reasons for the opinion that your explanation is not adequate are:]]”.

Consultation before starting faculty proceedings

3.—(1) In rule 4.1 (process for consultation), after paragraph (2) insert—

“(2A) The requirements under this Part to consult certain specified bodies do not prevent an intending applicant from consulting any other body or person.”

(2) In rule 4.7 (consultation: procedure), paragraph (4) is to be renumbered as paragraph (3), and after paragraph (3) insert—

“(4) Where a body which was not informed of consultation in accordance with paragraph (1) nevertheless responds to the consultation in question, the response need not be (but may be) taken into account, regardless of when it is received.

(5) Where consultation under rule 4.5 or 4.6 is sent by means of an online system, any response to that consultation must itself, so far as is practicable, be sent by means of that online system.”

(3) In rule 4.9 (notification of advice), in paragraph (8)—

- (a) after “must state” insert—

“(a) ”, and

- (b) after sub-paragraph (a) insert—

“(b) if any other body or person has been consulted, the name of that body or person.”

Changes to Lists A and B

4. The Schedule (which makes changes to Lists A and B) has effect.

Minor amendments

5.—(1) In rule 2.2 (interpretation), at the appropriate place insert each of the following—

““conservation area” means a conservation area designated under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990;”;

““Historic Buildings & Places” means the Ancient Monuments Society (the working name of which is “Historic Buildings & Places”);”.

(2) In rule 3.1(7) (matters not requiring a faculty: interpretation), before “national accreditation body” insert “UK”.

(3) In rule 9.3 (special notice to Historic England etc.), in paragraph (1), for “Schedule 2” substitute “rule 4.5”.

(4) In rule 12.2 (evidence given orally), in paragraph (1), omit “subject to rule 12.3,”.

(5) In Schedule 1 (matters which may be undertaken without a faculty), in each of the following places, for “Advertisement” substitute “Advertisements (England)”—

(a) in Table 1, in List A, in matter A7, in paragraph (6), in the second column, and

(b) in Table 2, in List B, in matter B6, in paragraph (4), in the second column.

(6) In Schedule 3 (forms), in Form 2 (notification of Diocesan Advisory Committee’s final advice), after “At a meeting of the Diocesan Advisory Committee held on” insert “[or In the exercise of the delegated authority of the Diocesan Advisory Committee on]”.

(7) In that Schedule, in each of the following places, for “The Ancient Monument Society” substitute “Historic Buildings & Places”—

(a) in Form 3A (petition), in section F (consultation on works to listed church), and

(b) in Form 3B (petition), in section E (consultation on works to listed building).

Transitional provisions

6.—(1) The amendment made to rule 3.3 (undertaking List B matters without a faculty) by rule 2(2) of these Rules does not apply in a case where the archdeacon has sought advice under rule 3.2(2) before 1st July 2022.

(2) The amendments made to rules 4.2 and 4.9 (consultation with Diocesan Advisory Committee etc.) by rule 2(3) and (4) of these Rules do not apply to works or proposals in respect of which intending applicants have sought the advice of the Diocesan Advisory Committee under Part 4 of the Faculty Jurisdiction Rules 2015 before 1st July 2022.

(3) The amendment made to rule 5.5 (documents to accompany faculty petition) by rule 2(5) of these Rules does not apply to proceedings in a consistory court begun before 1st July 2022.

Morag Ellis
Christopher Angus
Ruth Arlow
Timothy Briden
Louise Connacher
Julie Dziegiel
Lisa McIntyre
Sandra Robertson
Matthew Saunders
Andrew Watson

These Rules were approved by the General Synod on 9th February 2022

A.S. McGregor
Registrar of the General Synod

SCHEDULE
CHANGES TO LISTS A AND B

Rule 4

PART 1
PRELIMINARY

Preliminary

1.—(1) Schedule 1 (matters which may be undertaken without a faculty) is amended as set out in this Schedule.

(2) In this Schedule—

“List A” means List A in Table 1 in Schedule 1 (matters which may be undertaken without consultation), and

“List B” means List B in Table 2 in Schedule 1 (matters which may be undertaken subject to consultation etc.).

PART 2
ENVIRONMENTAL MATTERS

Draught proofing

2. In matter A1 in List A (church building etc.), after paragraph (4) insert—

“(4A) Draught proofing an external door or window	The works do not affect the overall appearance or operation of the door or window and do not involve the replacement of a component”.
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Insulating heating pipes

3. In matter A1 in List A (church building etc.), in paragraph (6) (maintenance and repair works) in sub-paragraph (a), in the first column, after “the replacement of control equipment” insert “and the insulation of pipes in the boiler room and ancillary service areas”.

Low-energy lighting

4.—(1) In matter A1 in List A (church building etc.), in paragraph (6) (maintenance and repair works), for sub-paragraph (c) substitute—

“(c) lighting installations, other electrical installations and other electrical equipment (but not the replacement of light fittings, and see matter B1(8)(b) in List B as to fittings for low-energy lamps)”.

(2) In matter B1 in List B (church building), in paragraph (8) (extension of existing lighting system)—

(a) the existing text in the first column becomes sub-paragraph (a), and

(b) in the first column, after sub-paragraph (a) insert—

“(b) The replacement of light fittings with fittings suitable for low-energy lamps”.

Boilers (but not heat pumps)

5.—(1) In matter A1 in List A (church building etc), in paragraph (7) (boiler replacement using same fuel supply)—

- (a) the existing text in the first column becomes sub-paragraph (a),
- (b) in sub-paragraph (a), before “fuel supply and” insert “non-fossil”,
- (c) in sub-paragraph (a), for “and existing pipe runs” substitute “, whether with existing or similar pipe runs”,
- (d) in the text in parentheses in the first column, omit “or pipe runs”,
- (e) after sub-paragraph (a) insert—
“(b) The replacement of a flue liner”, and
- (f) in the second column, omit the first and second entries.

(2) In matter B1 in List B (church building etc), in paragraph (5), for the text in the first column (including the text in parentheses) substitute—

“(5) The replacement of a boiler, whether in the same or substantially the same location and utilising, whether with existing or similar pipe runs—

(a) a non-fossil fuel supply in place of a fossil fuel supply, or

(b) a different non-fossil fuel supply.

(See matter A1(7)(a) in List A for replacement using existing non-fossil fuel supply”).

(3) In matter B1 in List B, in paragraph (5), in the second column, after the first entry insert—

“Any work to an oil-fired heating system is carried out by a person whose work is subject to an accredited certification scheme (as defined in rule 3.1(6))”.

Roof insulation

6.—(1) In matter A1 in List A (church building etc), in paragraph (8) (roof replacement), in the second column, after the first entry insert—

“The installation of roof insulation is considered”.

(2) In matter A6 in List A (church halls and similar buildings), in paragraph (3) (roof covering replacement), in the second column insert—

“The installation of roof insulation is considered”.

(3) In matter B1 in List B (church building etc), in paragraph (6) (like for like replacement of material covering roof of listed building), in the second column, after the first entry insert—

“The installation of roof insulation is considered”.

(4) In matter B1 in List B, after paragraph (6) insert—

“(6A) The installation of roof insulation in a church which is not a listed building

The insulation material is chosen, and the method of installing the material is decided upon, after obtaining specialist advice”.

(5) In matter B5 in List B (church halls and similar buildings), after paragraph (1) insert—

“(2) The installation of roof insulation in a building which is not a listed building

The insulation material is chosen, and the method of installing the material is decided upon, after obtaining specialist advice”.

Soft furnishings etc.

7.—(1) In matter A5 in List A (church contents), in paragraph (3) (kneelers, hassocks etc.), in the second column, in the first entry, before “change to the overall appearance” insert “major”.

(2) In matter A5 in List A, in paragraph (6) (carpet replacement), in the first column, after “carpet” insert “or the introduction or replacement of movable floor coverings between individual pews”.

(3) In matter B4 in List B (church contents), in paragraph (5) (carpet replacement), in the first column—

- (a) after “underlay” insert “other than movable floor coverings between individual pews”,
- (b) before “List A” insert “matter A5(6) in”, and
- (c) after “carpets” insert “and introduction or replacement of movable floor coverings between individual pews”.

Gas and oil tanks

8.—(1) In matter A7 in List A (churchyard), in paragraph (8) (gas and oil tanks), in the first column—

- (a) omit “or replacement”, and
- (b) at the end of the entry in the first column insert—
“(See matter B6(4A) in List B for replacement of gas tanks)”.

(2) In matter A7 in List A, in paragraph (8), in the second column, omit the final entry.

(3) In matter B6 in List B (churchyard), after paragraph (4) insert—

“(4A) The replacement of gas tanks (and associated pipe work) (See matter A7(8) in List A for disposal of gas and oil tanks)	No works of excavation are involved, other than the digging of a trench which— (a) where it is underneath land used for the passage of vehicles (whether or not a public right of way), is at a depth of 600 millimetres, and (b) where it is underneath a footpath (whether or not a public right of way), is at a depth of 450 millimetres The local planning authority is notified of the proposal Any work to a gas fitting is carried out by a person who is registered on the Gas Safety Register (or is a member of another class of persons approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998(a)) The replacement tank is of similar dimensions and in substantially the same location If articulated human remains are discovered in the carrying out of the work, the work ceases, the discovery is reported to the court and the work does not resume until the court so orders”.
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(a) S.I. 1988/2451.

Electric vehicle charging points

9.—(1) In matter A7 in List A, the title to which becomes “Churchyard etc.”, after paragraph (10) insert—

“(11) The installation in the churchyard or elsewhere in the curtilage of the church of an upstand with an electrical outlet mounted on it for recharging an electric vehicle, where the church is not a listed building

The upstand and outlet together do not exceed 1.6 metres in height from the level of the surface used for parking vehicles
Any new disturbance below ground level is kept to a minimum
The upstand is situated in an area which may be lawfully used for off-street parking
The upstand is not situated within 2 metres of a highway
No more than one upstand is provided for each parking space
The work is carried out by a body or person who is registered with the relevant government department or other body responsible for accreditation”.

(2) In matter B1 in List B (church building etc.), after paragraph (14) insert—

“(14A) The mounting of an electrical outlet for recharging an electric vehicle on an external wall of a church which is not a listed building

The outlet is mounted at a height not exceeding 1.6 metres from the level of the surface used for parking vehicles
Any new disturbance below ground level is kept to a minimum
The wall is adjacent to an area which may be lawfully used for off-street parking
The wall is not situated within 2 metres of a highway
The work is carried out by a body or person who is registered with the relevant government department or other body responsible for accreditation”.

(3) In matter B5 in List B (church hall etc.) after paragraph (2) (inserted by paragraph 6(5) above) insert—

“(3) The mounting of an electrical outlet for recharging an electric vehicle on an external wall of a building which is not a listed building

The outlet is mounted at a height not exceeding 1.6 metres from the level of the surface used for parking vehicles
Any new disturbance below ground level is kept to a minimum
The wall is adjacent to an area which may be lawfully used for off-street parking
The wall is not situated within 2 metres of a highway
The work is carried out by a body or person who is registered with the relevant government department or other body responsible for accreditation”.

(4) In matter B6 in List B, the title to which becomes “Churchyard etc.”, after paragraph (5) insert—

“(5A) The installation in the churchyard or elsewhere in the curtilage of the church of an upstand with an electrical outlet mounted on it for recharging an electric vehicle, where the church is a listed building

The upstand and outlet together do not exceed 1.6 metres in height from the level of the surface used for parking vehicles
Any new disturbance below ground level is kept to a minimum

The upstand is situated in an area which may be lawfully used for off-street parking
The upstand is not situated within 2 metres of a highway
No more than one upstand is provided for each parking space
The work is carried out by a body or person who is registered with the relevant government department or other body responsible for accreditation”.

(5) In Schedule 1, in the text entitled “General Notes”, in the section of that text beginning “In List A and List B”, after the definition of “church” insert—

““curtilage”, in relation to a church, means any land (whether or not consecrated for burials) which is—

- (a) part of the curtilage of the church, or
- (b) if there is a church hall or other similar building subject to the faculty jurisdiction, part of the curtilage of that other building;”.

Solar panels

10.—(1) In matter B1 in List B, after paragraph (19) insert—

“(20) The installation of photovoltaic panels on a church which is not a listed building or in a conservation area”.

(2) In matter B5 in List B (church halls etc.), after paragraph (3) (inserted by paragraph 9(3) above) insert—

“(4) The installation of photovoltaic panels on a building which is not a listed building or in a conservation area”.

Electric heaters

11.—(1) In matter B4 in List B (church contents), in paragraph (10) (heating appliances), in the first column, for “a heating” substitute “an electrical heating”.

(2) In matter B4 in List B, after paragraph (10) insert—

“(10A) The installation of an electrical heating system for attachment to pews made in or after 1850 and which are not of historic interest

Details of the appliances, their proposed location and fixing and the location of any cable runs are submitted to the archdeacon when the archdeacon is consulted on the proposal to undertake the matter

Any work to an electrical installation or electrical equipment is carried out by a person whose work is subject to an accredited certification scheme (as defined in rule 3.1(6))

No article of historic or artistic interest is removed or disposed of”

Cable trenches

12. In matter B6 in List B, after paragraph (8) insert—

“(9) The digging of a cable trench and the installation of cables, and the attachment of wiring, in the trench.

A plan showing the proposed route of the trench is submitted to the archdeacon when the archdeacon is consulted on the proposal to undertake the matter and the archdeacon

approves the route proposed
No cables exceed low voltage (as defined by the regulations on electrical wiring published by the British Standards Institution)
Where the trench is underneath land used for the passage of vehicles (whether or not a public right of way), the depth of the trench is 600 millimetres
Where the trench is underneath a footpath (whether or not a public right of way), the depth of the trench is 450 millimetres
If articulated human remains are discovered in the carrying out of the work, the work ceases, the discovery is reported to the court and the work does not resume until the court so orders”.

PART 3 OTHER MATTERS

Lightning conductors

13.—(1) In matter A1 in List A (church building etc.), in paragraph (11), after “lightning conductor” insert “or to an earth mat connected to an existing lightning conductor”.

(2) In matter B1 in List B (church building etc.), in paragraph (9), after “lightning conductor” insert “or the connection of an earth mat to a lightning conductor”.

Clapper shafts

14. In matter A3 in List A (bells etc.), after paragraph (4) insert—
“(5) The like for like replacement of a wrought iron clapper shaft”.

Broadband equipment

15.—(1) In matter B1 in List B (church buildings etc.), after paragraph (11) insert—
“(11A) The installation of equipment for receiving, or for receiving and sharing, wireless broadband services

The equipment does not adversely affect the church’s protection against lightning
Any cable runs are secured so as to minimise the risk that they become loose
Details of the equipment, its proposed location and the location and securing of any cable runs are submitted to the archdeacon when the archdeacon is consulted on the proposal to undertake the matter
In the formulation of those details, regard is had to the desirability of avoiding loss of or damage to historic material
The diocesan registrar is consulted on the terms of any proposed contract for the sharing of the wireless broadband services”.

(2) In matter B5 in List B (church halls etc.), after paragraph (4) (inserted by paragraph 10(2) above) insert—

“(5) The installation of equipment for receiving, or for receiving and sharing, wireless broadband services

The equipment does not adversely affect the building’s protection against lightning

Any cable runs are secured so as to minimise the risk that they become loose

Details of the equipment, its proposed location and the location and securing of any cable runs are submitted to the archdeacon when the archdeacon is consulted on the proposal to undertake the matter

In the formulation of those details, regard is had to the desirability of avoiding loss of or damage to historic material

The diocesan registrar is consulted on the terms of any proposed contract for the sharing of the wireless broadband services”.

Sound control measures in belfry

16. In matter B2 in List B (bells etc.), in paragraph (7), for “louvres in a belfry as a sound control measure” substitute “a sound control measure in a belfry”.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Faculty Jurisdiction Rules 2015 (S.I. 2015/1568) (“the 2015 Rules”).

Rule 2 provides that persons proposing to undertake certain works must, as part of the procedure, provide an explanation of how they have had due regard to guidance issued by the Church Buildings Council on reducing carbon emissions.

Rule 3 makes minor amendments to the procedure for consultation before faculty proceedings can begin, including by imposing a requirement that, where the online faculty system is used for the consultation, responses to the consultation should also use the online system.

Rule 4 introduces the Schedule, which makes amendments to Lists A and B in Schedule 1 to the 2015 Rules. In particular, the amendments in Part 2 of the Schedule are concerned with promoting environmental protection (for example, fitting boilers which do not use fossil fuels and installing charging points for electric vehicles).

Rule 5 makes some minor drafting improvements and corrections to the 2015 Rules.

Rule 6 makes transitional provisions.

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