STATUTORY INSTRUMENTS

2015 No. 1568

ECCLESIASTICAL LAW, ENGLAND

The Faculty Jurisdiction Rules 2015

Made - - - -	*18th May 2015*
Approved by the General Synod - - - - - -	*11th July 2015*
Laid before Parliament	*24th July 2015*
Coming into force - -	*1st January 2016*

The Rule Committee, in exercise of the powers conferred by sections 14(7), 15(4), 18B, 21(4) and 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991(**1**), makes the following Rules:

PART 1

Overriding objective

Overriding objective

1.1.—(1) The overriding objective of these Rules is to enable the court to deal with cases justly.

(2) Dealing with a case justly includes, so far as practicable—

(a) ensuring that the parties are on an equal footing;

(b) saving expense;

(c) dealing with the case in ways that are proportionate to the importance of the case and the complexity of the issues; and

(d) ensuring that it is dealt with expeditiously and fairly.

Application by the court of the overriding objective

1.2. The court must seek to give effect to the overriding objective when it—

(a) exercises any power given to it by these Rules; or

(b) interprets any rule.

(**1**) 1991 No. 1. Relevant amendments were made by section 13 of the Church of England (Miscellaneous Provisions) Measure 2014 (2014 No. 1) and sections 2(3), 3(2) and 5 of the Care of Churches and Ecclesiastical Jurisdiction (Amendment) Measure 2015 (2015 No.1).

Duty of the parties

1.3. The parties are required to help the court further the overriding objective.

Court's duty to manage cases

1.4.—(1) The court must further the overriding objective by actively managing cases.

(2) Active case management includes—

(a) encouraging the parties and any other persons concerned in the proceedings to co-operate with each other—

(i) in the conduct of the proceedings, and

(ii) in resolving, as far as possible, matters that are in dispute between them;

(b) identifying the issues at an early stage;

(c) deciding promptly which issues (if any) need full investigation and a hearing in court and accordingly disposing of others summarily or on consideration of written representations;

(d) deciding the order in which issues are to be resolved;

(e) fixing timetables or otherwise controlling the progress of the case;

(f) considering whether the likely benefits of taking a particular step justify the cost of taking it;

(g) dealing with as many aspects of the case as the court can on the same occasion;

(h) dealing with the case without the parties needing to attend court;

(i) making effective use of technology; and

(j) giving directions to ensure that the resolution of a case proceeds quickly and efficiently.

Case management powers

1.5. The court's case management powers are set out in Part 18.

PART 2

Application and interpretation of the Rules

Application of the Rules

2.1.—(1) Parts 1, 2 and 4 to 20 and Schedules 2 and 3 apply to proceedings in consistory courts relating to—

(a) the faculty jurisdiction;

(b) injunctions; and

(c) restoration orders.

(2) Parts 1, 2, 11, 12, 13, 17, 18, 19, 20 and 21 to 27 and Schedule 3 apply to appeals relating to proceedings of a kind mentioned in paragraph (1).

(3) Part 3 and Schedule 1 make provision for certain matters within the jurisdiction of consistory courts to be undertaken without a faculty.

Interpretation

2.2.—(1) In these Rules—

"the archdeacon" means the archdeacon of the archdeaconry in which the church, churchyard or other building or place to which the proceedings relate is situated or, where an instrument made under section 9(1) of the Church of England (Miscellaneous Provisions) Measure 1983(**2**) is in force, the person appointed to perform the functions of the archdeacon to which these Rules relate;

"appeal court" means the court in which an appeal is brought and includes a Commission of Review;

"the chancellor" means the chancellor (or, in the case of the diocese of Canterbury, the Commissary General) of the diocese ;

"church" includes—

any building which is licensed for public worship according to the rites and ceremonies of the Church of England and is subject to the faculty jurisdiction, and

the curtilage of a church unless the contrary intention appears;

"churchyard" includes a consecrated burial ground not adjacent to the church;

"costs" includes—

fees, charges, disbursements, expenses and remuneration, and

any costs and expenses which a person may be ordered to pay under section 13(1) of the Measure;

"the court" means the consistory court of the diocese or, in relation to an appeal, the appeal court;

"Historic England" means the Historic Buildings and Monuments Commission for England;

"exhumation" includes the removal of a body (or part of a body) or of cremated human remains from a catacomb, mausoleum, vault or columbarium;

"injunction" means an injunction issued under section 13(4) of the Measure;

"intending applicant" means a person who intends to start proceedings in the consistory court for a faculty, injunction or restoration order;

"interim faculty" means a faculty issued under Part 15;

"listed building" has the same meaning as it has in the Planning (Listed Buildings and Conservation Areas) Act 1990(**3**);

"listed church" means a church which is a listed building;

"the Measure" means the Care of Churches and Ecclesiastical Jurisdiction Measure 1991;

"minister", in relation to a parish, has the same meaning as in the Measure;

"national amenity society" has the same meaning as in the Measure;

"party opponent" means a person who to any extent opposes the grant of a faculty and who has become a party to the proceedings;

"petitioner" means a person who starts faculty proceedings by submitting a petition to the consistory court;

"the registrar" means the registrar of the court;

"the registry" means—

in relation to a consistory court, the registry of the diocese for which that court is constituted;

(**2**) 1983 No. 2.
(**3**) 1990 c. 9.

in relation to an appeal court, the office of the registrar of that court;

"relevant person or body" means, 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(**4**), the person or body entitled to make an application in respect of the building by virtue of paragraph 1 of Schedule 1 to that Measure;

"restoration order" means an order made under section 13(5) of the Measure.

(2) These Rules apply to the Commissary Court of Canterbury as they apply to a consistory court.

(3) These Rules apply to a listed building of grade A, B or C as they apply to, respectively, a listed building of grade I, II* or II.

(4) A reference in these Rules to a numbered form is a reference to the form bearing that number in Schedule 3.

(5) A reference in these Rules to a building included in the list maintained by the Church Buildings Council under section 1(1) of the Care of Places of Worship Measure 1999 includes—

(a) any curtilage, monument, object or structure included in the list under section 1(4) of that Measure; and

(b) any object or structure fixed to the building.

(6) For the purposes of these Rules, faculty proceedings are opposed only if there is a party opponent to the proceedings and references to a petition or to proceedings being opposed or unopposed are to be construed accordingly.

(7) Rule 21.2 makes further provision for the interpretation of Parts 21 to 27 (Appeals).

Time

2.3.—(1) This rule shows how to calculate any period of time for doing any act which is specified by these Rules.

(2) A period of time expressed as a number of days shall be computed as clear days.

(3) In this rule 'clear days' means that in computing the number of days—

(a) the day on which the period begins; and

(b) if the end of the period is defined by reference to an event, the day on which that event occurs

are not included.

(4) Where the specified period is—

(a) 5 days or less; and

(b) includes—

(i) a Saturday or Sunday; or

(ii) a Bank Holiday, Christmas Day or Good Friday,

that day does not count.

(5) When the period specified by these Rules for doing any act in respect of the registry or registrar ends on a day on which the registry is closed, that act shall be in time if done on the next day on which the registry is open.

(**4**) 1999 No. 2. A relevant amendment was made by section 62(4) of the Dioceses, Pastoral and Mission Measure 2007 (2007 No. 1).

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(**5**), 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.

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

(**5**) 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.