STATUTORY INSTRUMENTS

1975 No. 135

ECCLESIASTICAL LAW

The Faculty Jurisdiction (Amendment) Rules 1975

Made (Approved by the General Synod)	*6th February* 1975
Laid before Parliament	*13th February* 1975
Coming into operation	*1st May* 1975

In pursuance of section 14 of the Faculty Jurisdiction Measure 1964(**a**), the Rule Committee constituted in accordance with the Schedule to the said Measure hereby make the following Rules:—

1.—(1) These Rules may be cited as the Faculty Jurisdiction (Amendment) Rules 1975 and shall come into operation on 1st May 1975.

(2) In these rules a rule referred to by number means the rule so numbered in the Faculty Jurisdiction Rules 1967(**b**).

(3) The Interpretation Measure 1925(**c**) shall apply for the interpretation of these rules as it applies for the interpretation of Measures passed by the General Synod.

2. In the Faculty Jurisdiction Rules 1967(**b**), and in the forms set out in the Appendix thereto, for references to the Council for the Care of Churches there shall be substituted references to the Council for Places of Worship.

3. In rule 3(4), for the words from " the parish ", where first occurring, to the end there shall be substituted the words " such of the churches or places of worship in the parish as the registrar may direct, but directions given under this paragraph shall include the parish church or one or more of the parish churches in the parish and, if the application relates to a church or place of worship which is not a parish church, that church or place of worship ".

4.—(1) In rule 5(1), for the words from " the parish ", where first occurring, to " citation " there shall be substituted the words " such of the churches or places of worship in the parish as the judge may direct, but directions given under this paragraph shall include the parish church or one or more of the parish churches in the parish and, if the application relates to a church or place of worship which is not a parish church, that church or place of worship. The citation ".

(2) After paragraph (1) of rule 5 there shall be inserted the following paragraph:—

" (1A) Notwithstanding anything in paragraph (1) of this rule, in the case of a petition for a faculty for the exhumation of any human remains, the judge shall have the following powers, that is to say,—

(*a*) if he is satisfied that any near relatives of the deceased person still living, and any other persons who in the opinion of the judge it is reasonable to regard as being concerned with the matter, are the

(a) 1964 No. 5. (b) S.I. 1967/1002(1967 II, p. 3031). (c) 15 & 16 Geo. 5 No. 1.

petitioners or consent to the proposed faculty being granted, he may dispense with the issue of a citation and decree the issue of the faculty forthwith ;

(*b*) in any other case, he may dispense with the issue of a general citation and direct that any of the persons referred to in sub-paragraph (*a*) above who are not the petitioners be specially cited ".

5. After rule 5 there shall be inserted the following rule:—

" 5A.—(1) Where the petition is for a faculty for the disposal of an article which in the opinion of the judge is or may be an article of historic or artistic interest, he may direct the registrar to serve notice in writing of the petition on the Council for Places of Worship ; and where the judge gives such a direction, he shall direct the petitioner to serve on that Council a copy of the petition and of the accompanying documents which were lodged in the diocesan registry under rule 4(5).

(2) In this rule " article " includes a part of a building, any thing affixed to land or a building and any part of an article."

6. For paragraph (3) of rule 6 there shall be substituted the following paragraphs:—

" (3) Where notice in writing of a petition has been served on the Council for Places of Worship under rule 5A—

(*a*) a report by the Council on the matter to which the petition relates may be made to the judge within six weeks after the date on which the Council received notice of the petition ; or

(*b*) an application to give evidence in the proceedings may be made by a member of the Council or a person authorised by the Council ;

and any such application shall be made to the registrar, shall be in the form set out in the Appendix and shall be lodged at the diocesan registry not more than six weeks after the said date.

(4) The judge may of his own motion direct the summoning of a member of the Diocesan Advisory Committee or any other person to give evidence at the hearing of any petition for a faculty, if he considers that the person summoned may be able to give relevant evidence and is willing to give it.

(5) Where any person has applied in accordance with paragraph (2) or (3) of this rule, or has been summoned under paragraph (4) thereof, to give evidence in proceedings for a faculty, the registrar shall give to the parties to the proceedings not less than seven clear days' notice in writing that the evidence is to be given and of the name and address of the proposed witness and, in the case of a witness summoned under paragraph (4) of this rule, of the nature of the evidence required of him.

(6) Evidence given by any such person as is referred to in paragraph (5) of this rule shall be subject to cross-examination by the party or parties concerned.

(7) The substance of any report made to the judge by the Council for Places of Worship under paragraph (3) of this rule shall be disclosed to the parties to the proceedings."

7. After rule 11 there shall be inserted the following rule:—

"*Appointment of person to sit as clerk of the court in place of registrar*

11A. If the judge by whom any proceedings for a faculty are to be heard is of opinion that by reason of the fact that the registrar has acted for any of the parties or has otherwise been personally connected with the proceedings he ought not to sit as clerk of the court at the hearing, he shall appoint another practising solicitor to sit as such clerk in place of the registrar.

8. In the Appendix to the Faculty Jurisdiction Rules 1967, after Form No. 9 there shall be inserted the Form set out in the Appendix to these Rules.

Harold S. Kent
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Dated 2nd January 1975.

Approved by the General Synod 6th February 1975.

W. D. Pattinson,
Secretary-General.

APPENDIX

No. 9A

Application by member of Council for Places of Worship or person authorised by Council to give evidence under rule 6(3)

Diocese of

I, of ,

hereby apply under rule 6(3) of the Faculty Jurisdiction Rules 1967, as amended, to give evidence in open court in the proceedings for a faculty to dispose of

I am a member of [a person duly authorised by] the Council for Places of Worship [to give evidence in the said proceedings]. [A copy of my authority is annexed hereto.]

Dated this day of 19

EXPLANATORY NOTE

(This Note is not part of the Rules)

The principal changes in the Faculty Jurisdiction Rules 1967 made by these Rules are as follows:—

(1) A notice of the intention of the incumbent and churchwardens of a parish to make an application under section 12 of the Faculty Jurisdiction Measure 1964 for authority to carry out certain works is to be affixed on or near the principal door of such of the churches or places of worship in the parish as the registrar may direct instead of on or near the principal door of the church or place of worship specified in rule 3(4) of the 1967 Rules, namely, the parish church and any other church or place of worship to which the application relates. A similar change is made in rule 5(1) of those Rules with respect to a petition for a faculty except that in this case it is the judge who will give the direction.

(2) The judge hearing a petition for a faculty for the exhumation of human remains is empowered to dispense with the issue of a general citation and either to decree the issue of the faculty forthwith, if he is satisfied that any near relatives of the deceased person still living and any other persons who in his opinion it is reasonable to regard as being concerned with the matter are the petitioners or consent to the grant of the faculty, or to direct that any of those persons who are not the petitioners be specially cited.

(3) Provision is made for notifying the Council for Places of Worship of a petition for a faculty for the disposal of an article which in the opinion of the judge is or may be an article of historic or artistic interest. Where the Council receives notice of such a petition either a report on the matter may be made to the judge by the Council or an application to give evidence in the proceedings may be made by a member of, or person authorised by, the Council.

(4) If in the opinion of the judge the registrar ought not to sit as clerk of the court at the hearing of any proceedings for a faculty by reason of the fact that he has been personally connected with the proceedings, the judge is empowered to appoint another practising solicitor to sit as such clerk in place of the registrar.

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