STATUTORY INSTRUMENTS

1964 No. 1032

ECCLESIASTICAL LAW

The Faculty Jurisdiction Rules 1964

Made (Approved by the Church Assembly) -	*7th July* 1964
Laid before Parliament	*10th July* 1964
Coming into Operation	*20th July* 1964

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

Preliminary

1. These Rules may be cited as the Faculty Jurisdiction Rules 1964, and shall come into operation on the twentieth day of July 1964.

2.—(1) In these Rules—

"the Measure" means the Faculty Jurisdiction Measure 1964, and

"the registrar" means, in relation to proceedings affecting a church or churchyard, the registrar of the diocese in which the church or churchyard is situated, and includes any person appointed to act as deputy registrar.

(2) The Interpretation Measure 1925(b) shall apply for the interpretation of these Rules as it applies for the interpretation of Church Assembly Measures.

Faculties for demolition of churches (section 2 of Measure)

3.—(1) The notice stating the substance of a petition for a faculty for the demolition or partial demolition of a church, which is required by section 2(1)(i) of the Measure to be published in the London Gazette and in such other newspapers as the court may direct, shall be published within the following periods:—

(*a*) in the case of the London Gazette, within the period of four weeks immediately following the day on which the petition was lodged with the registrar or the day on which these Rules come into operation, whichever is the later;

(*b*) in the case of other newspapers publication in which is directed as aforesaid, within the period specified in the direction or, if no period is so specified, within the period of fifteen days immediately following the date of the direction.

(2) An application by a member of the Council or other person under section 2(1)(iv) of the Measure to give evidence in open court shall be made to the registrar and shall be in the appropriate form set out in the Appendix. Forms No. 1 and No. 2.

(a) 1964 No. 5. (b) 15 & 16 Geo. 5. No. 1.

(3) The application shall—

(*a*) if made by a member of the Council or a person authorised by the Council, be lodged with the registrar within the period of six weeks immediately following the day on which the Council received notice under section 2(1)(ii) of the Measure ;

(*b*) if made by any other person, be lodged with the registrar within the period of four weeks immediately following the day of publication in the London Gazette of the notice stating the substance of the petition.

Appointment of person to act for archdeacon (section 9(2) of Measure)

4.—(1) In making an appointment under section 9(2) of the Measure the bishop may act on such evidence of the incapacity of the archdeacon as he shall think sufficient, and a statement of his incapacity in the instrument of appointment shall be conclusive.

(2) The instrument of appointment shall be in the form set out
Form No. 3. in the Appendix.

Returns to faculties

5.—(1) Unless the judge otherwise directs there shall be included in every faculty authorising work to be done in a church or churchyard a provision requiring the work to be carried out within such period as the judge may direct and requiring a certificate in the form
Form No. 4. set out in the Appendix to be completed by such persons as the judge may direct and lodged with the registrar within that period.

(2) There shall be issued with every faculty containing such a provision as aforesaid a form of certificate to be completed in accordance with that provision and, if the faculty is issued subject to a condition requiring the work or any part thereof to be carried out under the supervision of the archdeacon or any other person (as provided in section 10(*a*) of the Measure), the certificate shall also certify that that condition has been complied with.

Archdeacon's certificate (section 12 of Measure)

6.—(1) An application to the registrar under section 12(1) of the
Form No. 5. Measure shall be in the form set out in the Appendix.

(2) A notice of intention to make such an application, which is required by section 12(2) of the Measure to be given in the parish,
Form No. 6. shall be in the form set out in the Appendix and shall be affixed on or near to the principal door of the parish church, and of every other building licensed for divine service in the parish.

(3) The said notice shall not be affixed until the parochial church council have passed the resolution required by section 12(1) of the Measure in support of the application, and shall remain affixed for a continuous period of not less than 14 days exclusive of the day on which it was affixed.

(4) The certificate required by section 12(2)(ii) of the Measure that notice of intention and opportunity to object has been duly
Form No. 7. given shall be in the form set out in the Appendix.

(5) The reference of an application to the judge under the proviso to section 12(2) of the Measure shall be effected by the registrar submitting to the judge—

(*a*) the application and the supporting resolution and certificate, and

(*b*) a memorandum by the registrar setting out the reasons why he is not satisfied that the application is within section 12(1).

(6) A notice of objection under section 12(3) of the Measure shall be in the form set out in the Appendix, and may be given at any time after the notice of intention is affixed in accordance with paragraph (2) of this Rule and before the expiration of the period of 28 days immediately following the day on which the notice was affixed, and the registrar shall not refer the application to the archdeacon until after the expiration of that period. Form No. 8.

(7) If the judge under section 12(7) of the Measure allows the procedure laid down by that section to be followed with regard to an application other than an application falling within section 12(1), the foregoing provisions of this Rule and the forms relating thereto shall apply, except that the form of application shall be varied as set out in the Appendix, and in the form of notice of intention the reference to section 12(1) shall be replaced by a reference to section 12 as applied by the judge under section 12(7). Form No. 9.

(8) The approval by the advisory committee of the issue of the archdeacon's certificate shall be in writing signed by the chairman or a person nominated by him and by the secretary.

(9) The archdeacon's certificate shall be in the form set out in the Appendix. Form No. 10.

Advisory committees (*section* 13 *of Measure*)

7.—(1) An advisory committee may make its own rules of procedure, and may adopt any general regulations as to procedure, made by the Council.

(2) Proper designs, plans and specifications of any work in connection with a church or churchyard for which a faculty is required shall, unless the judge otherwise directs, be submitted to the advisory committee before presentation of the petition for the faculty, and their report shall be annexed to the petition.

(3) The judge may at any stage of the proceedings for the faculty require the advice of the advisory committee, and may refer any report or advice made or given by them to the Council for further consideration and advice.

Evidence called by the judge

8.—(1) The judge may of his own motion summon before his court and examine a member of the advisory committee or any other person whose evidence he considers relevant and who in either case is willing to give evidence, but the judge shall give to the parties to the proceedings not less than seven clear days' notice in writing of his intention to exercise this power and of the name and address of the proposed witness, and of the matters on which his evidence is required. Evidence so given shall be subject to cross-examination by the parties.

General provisions

9.—(1) Where any act is required by or under these rules to be done within a specified period, the registrar or judge may, on an application made by the person concerned, enlarge the period ; and the application may be made notwithstanding that the period has expired.

(2) The registrar or judge may exercise the said power on an ex parte application, or may give directions for the giving of notice thereof and for a hearing.

(3) Any such application may be granted on such terms as the registrar or judge may think just.

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

11. The Faculty Jurisdiction Rules 1939(a) are hereby revoked.

Robert Exon.
Seiriol J. A. Evans.
Henry Willink.
W. S. Wigglesworth.
Innes N. Ware.

Dated the 3rd day of June 1964.

Approved by the Church Assembly the 7th day of July 1964.

John Guillum Scott, Secretary.

APPENDIX

FORMS

No. 1

Rule 3(2). *Application by member of Central Council or person authorised by Central Council to give evidence under section* 2(1)(*iv*)

Faculty Jurisdiction Measure 1964

Diocese of

I, of ,
hereby apply under section 2(1)(iv) of the Faculty Jurisdiction Measure 1964, to give evidence in open court in the proceedings for a faculty to demolish [a part of] the church of
in the parish of .

I am a member of [a person duly authorised by] the Central Council of Diocesan Advisory Committees for the Care of Churches [to give evidence in the said proceedings]. [A copy of my authority is annexed hereto.]

Dated this day of 19 .

Signature of applicant.

No. 2

Rule 3(2). *Application by person other than member of or person authorised by Central Council to give evidence under section* 2(1)(*iv*)

(Heading as in Form No. 1)

I, of ,
hereby apply under section 2(1)(iv) of the Faculty Jurisdiction Measure 1964 to give evidence in open court in the proceedings for a faculty to demolish [a part of] the church of in the parish of .

I am interested in the said proceedings by reason that

(a) S.R. & O. 1939/771 (Rev. VI, p. 298: 1939 I, p. 677).

(Here state the reason e.g. that the applicant is a parishioner, but the reason need not necessarily disclose an interest in the legal sense. State also the matters on which the applicant proposes to give evidence.)

Dated this day of 19 .

Signature of applicant.

No. 3

Instrument of appointment under section 9 of person to act for archdeacon Rule 4(2).

Faculty Jurisdiction Measure 1964

To of

I, , bishop of , in pursuance of section 9(2) of the Faculty Jurisdiction Measure 1964 hereby appoint you to act in the place of , archdeacon of , who is incapacitated from acting [is in my opinion unable or unwilling to act], in the matter of (here specify the case in which the person appointed is required to act).

Dated this day of 196 .

Signature of bishop.

No. 4

Certificate of completion of work Rule 5(2).

Parish of

We, of , hereby certify that the work authorised by the faculty dated the day of 196 has been carried out in accordance with the designs [plans and specifications] deposited in the registry.

(If the faculty required the work to be carried out under supervision, add: "The work was carried out under the supervision of of .")

Dated this day of 196 .

Signature of persons required to certify.

Counter-signature by person (if any) directed to supervise the work.

No. 5

Application under section 12(1) Rule 6(1).

Faculty Jurisdiction Measure 1964

We, A.B., incumbent of the parish of , and C.D., of , and E.F., of , churchwardens of that parish, hereby apply under section 12(1) of the Faculty Jurisdiction Measure 1964 for authority to carry out the following works, being works which in our opinion fall within paragraph[s]

of section 12(1), in the parish church of the said parish [the church of in the said parish]:—

(Here specify the proposed works, and include particulars of the following matters:—

1. The estimated cost and the sum in hand.

2. The approximate age of the church and of the part to be dealt with.

3. Whether the structure of the church will be affected, and how.

4. Whether the rights of any individuals will be affected, and how.

5. The name and address of any architect or builder or other contractor employed.

6. Whether any previous faculty or licence has been issued affecting the works proposed and, if so, the particulars of the faculty or licence.

7. Whether there is a rector lay or otherwise and whether his consent has been obtained (this question need only be answered if the work is in the chancel).)

The designs [plans and specifications] are sent herewith and the resolution of the parochial church council is annexed. The said resolution was carried unanimously [by votes to of the members present and voting] at a meeting of the parochial church council held on the day of 19 .

Dated the day of 19 .

Signatures of incumbent and churchwardens.

No. 6

Rule 6(2). *Notice of intention to make application under section* 12(1)

Faculty Jurisdiction Measure 1964

Parish of

Take notice that the incumbent and churchwardens of this parish intend to make an application under section 12(1) of the Faculty Jurisdiction Measure 1964 for authority to carry out the following works:—

(Here insert particulars of the proposed works.)

If any parishioner or person whose name is entered on the electoral roll of the parish or other person having an interest in the proposed works wishes to object to those works, he should state his objection in writing and deliver or send it to the registrar of the diocese of at the following address (state the registrar's office address) so as to reach him not later than (specify the date 28 days later than the date on which the notice was affixed).

Affixed this day of 19 .

Signatures of incumbent and churchwardens.

No. 7

Rule 6(4). *Certificate supporting application under section* 12(1)

Faculty Jurisdiction Measure 1964

We, A.B., the incumbent of the parish of , and C.D., of , and E.F., of , the churchwardens of that parish, hereby certify that the notice a copy

of which is annexed to this certificate was affixed on or near to the principal door of the parish church [and of— here state any other building in the parish licensed for divine service] during the period from to inclusive.

All persons having an interest have therefore been given an opportunity to object to the proposed works in accordance with the said notice.

Dated this day of 19 .

Signatures of incumbent and churchwardens.

No. 8

Notice of objection given to registrar under section 12(3) Rule 6(6).

Faculty Jurisdiction Measure 1964

To the registrar of the diocese of

I, of , hereby give notice of objection under section 12(3) of the Faculty Jurisdiction Measure 1964 to the proposed works specified in the notice of intention given by the incumbent and churchwardens of the parish of , dated .

I am a parishioner of the said parish [a person whose name is entered on the electoral roll of the said parish] [a person having an interest in the proposed works by reason that]

Dated this day of 19 .

Signature of objector.

No. 9

Application under section 12 *as applied by the judge under section* 12(7) Rule 6(7).

Faculty Jurisdiction Measure 1964

We, A.B., incumbent of the parish of , and C.D., of , and E.F., of , churchwardens of that parish hereby apply under section 12 of the Faculty Jurisdiction Measure 1964, as applied by the judge under section 12(7), for authority to carry out the following works in the parish church [churchyard] of the above parish [the church or churchyard of in the above parish]:—

(Here specify the proposed works and give particulars of the matters set out in Form No. 5, so far as relevant).

The designs [plans and specifications] are sent herewith and the resolution of the parochial church council is annexed. The said resolution was carried unanimously [by votes to of the members present and voting] at a meeting of the parochial church council held on the day of 19 .

Dated this day of 19 .

Signatures of incumbent and churchwardens.

No. 10

Rule 6(9).

Archdeacon's certificate under section 12

Faculty Jurisdiction Measure 1964

Diocese of

In pursuance of section 12 of the Faculty Jurisdiction Measure 1964, I archdeacon of , with the approval of the advisory committee, hereby authorise the execution in the parish church of the parish of [the church of in the parish of] of the work proposed in an application dated the day of 19 and made by the incumbent and churchwardens of the said parish.

The work as authorised shall be completed within months from the date hereof, and its completion shall be certified to the registrar by the incumbent and churchwardens of the parish.

Dated this day of 19 .

Signature of archdeacon.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules cover matters of practice and procedure arising under the following sections of the Faculty Jurisdiction Measure 1964 :—

section 2 (faculties for demolition of churches),

section 9(2) (appointment of person to act for archdeacon),

section 12 (issue of certificates by archdeacons),

section 13 (Diocesan advisory committees).

They also cover in Rules 5 and 8 two matters previously dealt with in Rules 4 and 6 of the Faculty Jurisdiction Rules 1939, now to be revoked.

These Rules do not provide the comprehensive code of practice and procedure contemplated by section 14(1)(*a*) of the Faculty Jurisdiction Measure 1964.