

**GENERAL SYNOD**  
**FACULTY JURISDICTION (AMENDMENT) RULES 2023**  
**Explanatory Notes**

The Faculty Jurisdiction (Amendment) Rules 2023 amend the Faculty Jurisdiction Rules 2015 so that they address the issue of what is commonly referred to as 'contested heritage'. They also correct a cross reference in the 2015 Rules.

### **Background**

1. The Dean of the Arches and Auditor, following discussion with the Archbishops' Racial Justice Commission ('ARJC'), convened the Rule Committee to consider the making of amendments to the Faculty Jurisdiction Rules so that they address the issue of what is commonly referred to as 'contested heritage'.
2. The relevant report of the ARJC is available online at [ACRJ First Report - Spring 22.pdf \(churchofengland.org\)](#). See in particular pp. 14, 15 and 21-24.
3. Following engagement with the ARJC, the Church Buildings Council ('CBC') has established a specialised committee with a diverse membership which prepares drafts of guidance on contested heritage. That guidance is then issued by the CBC under section 55 of the Dioceses, Pastoral and Mission Measure 2007. The current CBC guidance is available online at [Contested Heritage | The Church of England](#).
4. The Faculty Jurisdiction Rules in their current form are available [here](#).
5. The amendments made by the Amendment Rules will:
  - a. require intending applicants for a faculty, in formulating proposals relating to contested heritage, to have due regard to statutory guidance on that subject issued by the Church Buildings Council and to demonstrate that they have done so; and
  - b. require Chancellors, when giving reasons for granting a faculty or for dismissing a faculty petition, to state how a decision has taken statutory guidance into account.

### **Notes on the provisions of the Amendment Rules**

#### Rule 1 (Citation, commencement and interpretation)

6. Rule 1 makes certain standard technical provisions. In particular, it provides for the Amendment Rules to come into force on 1<sup>st</sup> January 2024. This allows time for them to be laid before Parliament and for the required 40 sitting days for both Houses to elapse before the amendments come into force.

### Rule 2 (Guidance in relation to monuments etc. conflicting with role of church)

7. Rule 2 provides that persons proposing the movement, removal or alteration of a statue, plaque, memorial, monument or other article because it is considered to conflict with the role of a church as a local centre of worship and mission\* must, as part of the procedure, provide an explanation of how they have had due regard to guidance issued by the Church Buildings Council.
8. Paragraph (1) amends rule 4.2 of the 2015 Rules which sets out the documents which have to be submitted to the Diocesan Advisory Committee ('DAC') when seeking its advice on proposals. Where proposals involve the movement, removal or alteration of a statue, plaque, memorial, monument or other article because it is considered to conflict with the role of the church as a local centre of worship and mission, the applicants will be required to provide an explanation of how they have had due regard to relevant guidance issued by the CBC (with the advice of its contested heritage committee).
9. Paragraph (2) amends rule 4.9 of the 2015 Rules which sets out what must be dealt with in the DAC's notification of advice. In a case that involves a monument etc. that is considered to conflict with the church's role, the DAC will be required to state whether it considers the applicants' explanation of how they have had due regard to the relevant CBC guidance is adequate; and, if it considers that it is not adequate, to give its reasons for that opinion.
10. Paragraph (3) amends rule 5.5 of the 2015 Rules which sets out the documents which must accompany a faculty petition (i.e. the formal application to the consistory court). In a case that involves a monument etc. that is considered to conflict with the church's role, an explanation of how those applying for the faculty have had due regard to relevant CBC guidance must be submitted with the faculty petition.

### Rule 3 (Chancellor's reasons to state how guidance taken into account)

11. Rule 3 amends rule 7.3 of the 2015 Rules which is concerned with the giving by the chancellor of reasons for the grant or refusal of a faculty. As amended by rule 3, rule 7.3 of the 2015 Rules will require the chancellor, when giving reasons for the grant or refusal of a faculty, to identify, and state how the chancellor has taken into account, any relevant statutory guidance issued by the CBC.
12. This requirement will apply to all cases where the CBC has issued statutory guidance which is relevant to the proposals under consideration, not just to cases involving a monument etc. that is considered to conflict with the role of the church.

### Rule 4 (Correction of reference)

13. Rule 4 corrects a cross reference in the 2015 Rules.

---

\* A person who carries out functions of care and conservation relating to churches under the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 or other legal provision is required by section 35 of that Measure to "have due regard to the role of a church as a local centre of worship and mission". The Rule Committee therefore considered that it would be apt to identify the category of cases with which the amendments are concerned by reference to monuments etc. "considered to conflict with the role of the church as a local centre of worship and mission".

Rule 5 (Transitional provisions)

14. Rule 5 makes transitional provision in relation to the Amendment Rules. In general, matters which are already underway before the Amendment Rules come into force are not affected.
15. The duty of the chancellor to identify relevant CBC guidance and state how it has been taken into account in determining a faculty petition are not subject to transitional provisions. Accordingly, that duty will come into operation immediately on the coming into force of the Amendment Rules.

The Legal Office  
Church House  
Westminster

June 2023