

DIOCESE OF ROCHESTER

FACULTY JURISDICTION: NEW RULES

New Rules

The Faculty Jurisdiction Rules 2015 come into effect on 1 January 2016 and will apply to all cases where no faculty petition has been submitted by that date. The major impact of the new Rules for parishes will be the introduction of new Lists A and B under which some more routine works will not now require a faculty petition. The Chancellor's Guidance on matters not requiring a Faculty (commonly known as the Minor Matters List or the De Minimis List) is withdrawn from 1 January 2016 and in effect is replaced by the new List A. Please note, however, that this new national List is a little different from the Chancellor's Guidance. Works under List B will require further authorisation and includes some works in respect of which an Archdeacon had power to grant a faculty but is wider in scope.

Purpose

The purpose of the new Rules is to simplify the process of obtaining authorisation for largely routine works to churches by reducing the procedural steps which parishes need to undertake. It will no longer be necessary to obtain a faculty for List A or B Works and therefore there will be no need for a DAC Notification of Advice, a Public Notice or a Petition. Nevertheless, certain safeguards will remain to ensure that proposed works are properly considered and national heritage assets are protected.

List A

These are works which can be undertaken by parishes without a faculty (as with the current Minor Matters List) and without the requirement for consultation outside the parish. Parishes should, however, still seek advice from their inspecting architect, the Archdeacon and the DAC. The detailed list of works covered by List A is set out in Schedule 1 to the Rules which is attached. The List contains "specified conditions" against each item which limit the scope of the work or the proposal and which in some instances impose other actions, for example, informing insurers or having regard to Church Building Council (CBC) guidance. In every case, it is vital to check the exact wording, the specified conditions and the excluded matters referred to below. It will be noted that there are no financial limits to any of the works in List A.

List B

List B works are more substantial and would previously have required authorisation by faculty. No DAC Notification of Advice, public notice or faculty is now needed but parishes must obtain a written notice of approval from their Archdeacon. In turn, the Archdeacon must seek advice from the DAC or one of its officers or members before giving his approval. He may impose specific conditions in addition to those which are imposed by the Rules against each item in List B. In all cases, parishes should contact the DAC secretary in the first instance although approvals will be issued from the Archdeacon's office. Again, the detailed wording of List B must be checked carefully including the specified conditions and excluded matters.

Faculty Petitions in Other Cases

Any works or proposals which are outside the scope of Lists A and B are otherwise excluded from those Lists or where the Archdeacon considers it inappropriate for him to authorise the works or proposals will need a faculty, as is the case now. In such cases, a formal DAC Notification of Advice, Public Notice and a formal petition will be required, to be determined by the Chancellor.

Excluded Matters

No works or proposals which would otherwise be within the scope of either List A or are under List B can be undertaken if they would involve any of the “excluded matters” set out in the Rules. There are eleven categories of exclusion and the list set out in rule 3.5 (attached) must be checked carefully to ensure none apply in the particular case.

Trees

The 2015 Rules also mean that the Chancellor’s Guidance on Trees is withdrawn from 1 January 2016 and is replaced by statutory and national guidance to be issued by the CBC. Most works to trees will now be covered by either List A or List B but will be subject to the CBC Guidance. If a faculty is still required, the usual petition form (Form 3A) will now be used and not the previous tree-specific form.

Archdeacons

Archdeacons can still issue places of safety orders and grant temporary re-ordering licences under the 2015 Rules as under the previous Rules.

Further Information

Lists A and B with the statutory specific conditions attached to each item are contained within Schedule 1 to the 2015 Rules and are attached/available from the Diocesan website, as is the detailed list of excluded matters. Any queries should be directed to the DAC Secretary, the Archdeacon’s office or the Registry.

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Diocesan Registrar

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