

# NEW FACULTY JURISDICTION RULES - FREQUENTLY ASKED QUESTIONS

## Background

On 1st January 2016 the new simplified Faculty Jurisdiction Rules come into force. This means:

- There is a new national 'A List' of works which can be carried out on your church without a Faculty. This replaces all Diocesan De Minimus and Minor Works lists. The A List can be found in Schedule I, Table 1 of the Faculty Jurisdiction Rules 2015:  
[http://www.legislation.gov.uk/uksi/2015/1568/pdfs/uksi\\_20151568\\_en.pdf](http://www.legislation.gov.uk/uksi/2015/1568/pdfs/uksi_20151568_en.pdf)
- There is a new national 'B List' of works which can be carried out once the written permission of the Archdeacon has been obtained. Most of these will be repairs and routine maintenance or small works identified in the QI report. The Archdeacon must consult the DAC (usually via the Secretary) for informed informal advice, but this should be a speedy and simple process enabling parishes to get on with the work without delay. The Archdeacon may set conditions on the way the works are carried out. The B List can be found in Schedule I, Table 2 of the Faculty Jurisdiction Rules 2015:  
[http://www.legislation.gov.uk/uksi/2015/1568/pdfs/uksi\\_20151568\\_en.pdf](http://www.legislation.gov.uk/uksi/2015/1568/pdfs/uksi_20151568_en.pdf)
- All other works will still require a Faculty, although the process has been simplified in a number of respects. Your DAC Secretary will be able to advise you about the best way forward. A list of DAC Secretaries can be found on the ChurchCare website:  
<http://www.churchcare.co.uk/churches/church-buildings-council/who-s-who/dacs/dac-contact-details>

## Frequently Asked Questions

Q: If a parish wants to do a number of works at once, some of which are on the A List, some on the B List, and some of which need a Faculty, how should they proceed?

*A: Where a project consists of various elements, some of which come within List A and/or B and others need a faculty, the parish should seek the advice of the DAC, and subsequently a faculty, in respect of the entire project.*

Q: How will Archdeacons' decisions be recorded? How do I get hold of the form?

*A: The archdeacon will give a notice to the parish that specifies any List B works he or she has decided may be undertaken without a faculty. As of 1 Jan 2016, it will be possible to make List B applications through the online system, and the notice will be produced by the system.*

Q: Can the Archdeacons set conditions on the way the work is carried out?

*A: Yes. In addition to the standard conditions which apply to particular List B matters, the archdeacon can impose additional conditions which will be set out in the notice given to the parish by the archdeacon.*

Q: What are the circumstances in which a Chancellor might specify all works in a church (even if they are on the A and B Lists) will require a Faculty

*A: This might include circumstances where all of the contents of a church – down to minor furnishings such as hassocks – are considered to be of special artistic importance. This will only apply to a handful of churches across the country. It might also include circumstances where a parish had previously abused the List A and B regime. Such orders by chancellors are likely to be rare.*

Q: What are the circumstances in which Archdeacons might decide that even if a work is on List B a full Faculty should be applied for?

*A: An archdeacon can decline to give notice permitting works even though they fall within List B. He or she might do that where the proposed works were controversial within the parish or where a particular method proposed by the parish was novel and therefore required full consideration by the DAC with notification to other interested parties before a decision was taken by the chancellor.*

Q: If a QI is out of date, or does not use the term routine maintenance, what constitutes a routine maintenance matter on List B?

*A: QI reports should be prepared on a five-yearly cycle and should not be allowed to slip significantly. However, the condition relating to routine maintenance and repair affecting fabric under List B simply refers to the most recent QI report. That report can therefore be referred to even if it is out of date. But where it is very out of date – and possibly unreliable – the archdeacon might decline to permit the proposals to proceed under List B.*

*If a parish's QI report does not identify works as routine maintenance and the parish thinks they probably fall within List B, the parish should ask its inspecting architect or surveyor to prepare a short supplementary written statement which identifies any outstanding works as routine maintenance where that is the case.*

Q: Have the rules on temporary reordering changed?

*A: Yes. Rule 8.2 makes it clear that the archdeacon can continue to authorise temporary minor reordering of a church, including its fixtures and fittings (but anything that is moved must still be capable of being easily reinstated). However the archdeacon must now consult the DAC, or such of its members of officers as he or she thinks fit, before giving a licence for temporary minor reordering.*

Q: Why has Local Authority consultation on works to the interior of a church been put in the Rules again? What does this mean in practice?

*A: Paragraph 4 of Schedule 2 of the new Rules reinstates a provision of the 2000 Rules. This requires the local planning authority to be consulted in cases where what is proposed involves demolition of a building that is listed or in a conservation area or where works would change a listed building to such an extent as would be likely to affect its character as a building of special architectural or historic interest. Most cases do not fall into these categories but where they do, the Government's Code of Practice for the operation of the ecclesiastical exemptions requires consultation with the local planning authority as well as the other bodies provided for in Schedule 2. In practise if Local Authorities fail to reply within 28 days the parish will have fulfilled their obligation and can proceed.*

Q: Can a DAC alter Lists A and B?

A: No.

Q: Can a Chancellor remove items from Lists A and B?

A: No

Q: Can a Chancellor add to Lists A and B?

*A: The chancellor can make an additional matters order which adds to the matters which may be undertaken without a faculty, subject to such conditions as the chancellor may specify in the order. This is unlikely to happen in the short term as Chancellors have indicated that the system should be given time to bed down first.*

Q: Can a Chancellor exclude parishes from the system?

*A: The chancellor can make an excluded matters order in respect of a particular parish with the effect that a matter specified in the order can only be undertaken in that parish if a faculty is granted even though the matter would normally be covered by List A or B. Except in urgent cases, the chancellor has to seek the advice of the DAC before deciding whether to make an additional matters order or an excluded matters order.*

Q: Has the Chancellor's guidance on trees been abolished?

*A: Yes. Statutory national guidance on trees is now given by the Church Buildings Council. It is a requirement that regard is had to this advice when carrying out any works to trees which are included in List A or List B. Felling healthy trees will still require a Faculty.*

Q: Who is an authorised person?

*A: In a parish this is the Minister and the Church Wardens. Formal responsibility rests with them but in practice they may delegate the job of sorting out the works to another PCC member e.g. Fabric Officer or in larger churches, to a staff member.*

Q: When will we be able to apply for List B items using the Online Faculty System?

*A: The new Faculty Jurisdiction Rules 2015 come into effect on 1<sup>st</sup> January 2016. A new List A & List B module has been developed for the Online Faculty System and will be available to registered users when the new rules become law.*

Q: Will we be able to log List A items on the Online Faculty System?

*A: Yes. Although it is not mandatory for parishes to apply for List A items, a new module has been developed for the Online Faculty System which will allow them to keep a record of any minor works they wish to undertake under List A.*

2 November 2015