



# Ecclesiastical Fees Measure 1986

1986 No. 2

A Measure passed by the General Synod of the Church of England to make further provision with respect to ecclesiastical fees and for purposes connected therewith. [18th March 1986]

## Commencement Information

II Measure not in force at Royal Assent see [s. 12\(3\)](#); Measure wholly in force at 01.09.1986

## PART I

### *Parochial Fees*

#### **1 Preparation of draft Parochial Fees Orders.**

- (1) The Church Commissioners may prepare a draft of an order (to be known as a “Parochial Fees Order”) which prescribes the amount of the parochial fees to be paid to the persons specified in that order in relation to the matters so specified.
- (2) A draft order prepared under subsection (1) above may contain such incidental provisions as the Church Commissioners consider necessary or desirable.

#### **2 Procedure for making Parochial Fees Orders.**

- (1) Every draft Parochial Fees Order shall be laid before the General Synod and if it is approved by the General Synod, whether with or without amendment, the draft order as so approved shall be referred to the Church Commissioners.
- (2) Where a draft order is referred to the Church Commissioners under subsection (1) above then—
  - (a) if it has been approved by the General Synod without amendment, the Church Commissioners shall, by applying their seal, make the order;

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*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Ecclesiastical Fees Measure 1986. (See end of Document for details)*

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- (b) if it has been approved by the General Synod with amendment, the Church Commissioners may either—
- (i) by applying their seal make the order as so amended, or
  - (ii) withdraw the draft order for further consideration in view of any amendment made by the General Synod;
- and a Parochial Fees Order shall not come into force until it has been sealed by the Church Commissioners.
- (3) Where the Standing Committee of the General Synod determines that a draft Parochial Fees Order does not need to be debated by the General Synod, then, unless—
- (a) notice is given by a member of the General Synod in accordance with its Standing Orders that he wishes the draft order to be debated, or
  - (b) notice is so given by any such member that he wishes to move an amendment to the draft order and at least twenty-five other members of the Synod indicate when the amendment is called that they wish the amendment to be moved,
- the draft order shall for the purposes of subsections (1) and (2) above be deemed to have been approved by the General Synod without amendment.
- (4) The <sup>M1</sup>Statutory Instruments Act 1946 shall apply to a Parochial Fees Order sealed by the Church Commissioners under subsection (2) above as if it were a statutory instrument and were made when sealed by the Commissioners and as if this Measure were an Act providing that any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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**Marginal Citations**

**M1** 1946 c. 36.

**3 Provisions as to persons to whom parochial fees are to be paid.**

- (1) During a vacancy in a benefice parochial fees which, but for the vacancy, would be paid to the incumbent of the benefice shall be paid to the diocesan board of finance or to such other person as the said board, after consultation with the bishop, may direct.
- (2) Where a licence of a chapel includes a provision fixing a fee for the solemnization of a marriage or any other matter for which a parochial fee is prescribed by a Parochial Fees Order then, notwithstanding anything in the licence, the fee to be paid in respect of that matter shall be the fee prescribed by the order, but any provision of the licence as to the person to whom the fee in respect of that matter is to be paid shall continue to apply and where the licence provides for the fee to be paid to two or more persons the fee prescribed by the order shall be payable to those persons in the same proportions as under the provisions of the licence.

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## PART II

### *Ecclesiastical Judges' and Legal Officers' Fees*

#### **4 Constitution of Fees Advisory Commission.**

- (1) After every ordinary election to the General Synod the Archbishops of Canterbury and York shall jointly request—
  - (a) the Lord Chancellor to appoint a person who is or has been a judge of the Court of Appeal or of the High Court of Justice, a circuit judge or a recorder;
  - (b) the chairman of the Bar Council to appoint a barrister;and
  - (c) the president of the Law Society to appoint a solicitor;and the three persons so appointed together with—
  - (d) the person who holds the appointments of First Church Estates Commissioner and Chairman of the Central Board of Finance, and
  - (e) a member of the Standing Committee of the General Synod appointed for the purposes of this Measure by that Committee,shall constitute the Fees Advisory Commission.
- (2) If at any time the appointments of First Church Estates Commissioner and Chairman of the Central Board of Finance are not both held by the same person, subsection (1) above shall have effect as if for paragraphs (d) and (e) there were substituted the following paragraphs—
  - “(d) the First Church Estates Commissioner and
  - (e) the Chairman of the Central Board of Finance.”
- (3) The members of the Fees Advisory Commission appointed under paragraphs (a) to (c) of subsection (1) above and (unless the appointments of First Church Estates Commissioner and Chairman of the Central Board of Finance are not held by the same person) the member appointed under paragraph (e) of that subsection (the “appointed members”) shall hold office until, after the next following ordinary election to the General Synod, further appointments are made under this section.
- (4) If an appointed member of the Fees Advisory Commission dies or resigns, then—
  - (a) if he was appointed under paragraph (a), (b) or (c) of subsection (1) above, the Archbishops of Canterbury and York shall jointly request the person who appointed him to appoint as a member of the Commission another person who is qualified for appointment under the paragraph in question;
  - (b) if he was appointed under paragraph (e) of that subsection, the Standing Committee of the General Synod shall appoint as a member of the Commission another member of that Committee,and a person appointed under this subsection shall hold office for the period for which the person who has died or resigned would have held office.
- (5) The Fees Advisory Commission shall be entitled to act notwithstanding any temporary vacancy caused by the death or resignation of any of its members.
- (6) An appointed member of the Fees Advisory Commission whose term of office comes to an end shall be eligible for reappointment.

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## 5 Legal Officers (Annual Fees) Orders.

- (1) The Fees Advisory Commission may make recommendations as to the annual fees to be paid to legal officers in respect of such of the duties of their office as are specified by the Commission, and the Commission may make an order (to be known as a “Legal Officers (Annual Fees) Order”) to give effect to their recommendations.
- (2) Any order made under subsection (1) above may contain such incidental provisions as the Fees Advisory Commission considers necessary or desirable.
- (3) Any order made under subsection (1) above shall be laid before the General Synod and shall not come into force until it has been approved by the General Synod.
- (4) Where the Standing Committee of the General Synod determines that a Legal Officers (Annual Fees) Order does not need to be debated by the General Synod, then, unless notice is given by a member of the General Synod in accordance with its Standing Orders that he wishes the order to be debated, the order shall for the purposes of subsection (3) above be deemed to have been approved by the General Synod.
- (5) The <sup>M2</sup>Statutory Instruments Act 1946 shall apply to a Legal Officers (Annual Fees) Order approved by the General Synod as if it were a statutory instrument and were made when so approved and as if this Measure were an Act providing that any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### Modifications etc. (not altering text)

- C1 S. 5 modified (retrospectively) by [Church of England \(Miscellaneous Provisions\) Measure 2018 \(No. 7\)](#), **ss. 8(6), 17(2)(b)**

### Marginal Citations

- M2 1946. c. 36.

## 6 Ecclesiastical Judges and Legal Officers (Fees) Orders.

- (1) The Fees Advisory Commission may make recommendations as to the fees to be paid in respect of such duties performed by ecclesiastical judges and legal officers as are specified by the Commission (not, in the case of legal officers, being duties covered by the annual fees payable under a Legal Officers (Annual Fees) Order), and the Commission may make an order (to be known as an “Ecclesiastical Judges and Legal Officers (Fees) Order”) to give effect to their recommendations.
- (2) Any order made under subsection (1) above may contain such incidental provisions as the Fees Advisory Commission considers necessary or desirable.
- (3) Any order made under subsection (1) above shall be laid before the General Synod and shall not come into force until it has been approved by the General Synod, whether with or without amendment.
- (4) Where the Standing Committee of the General Synod determines that an Ecclesiastical Judges and Legal Officers (Fees) Order does not need to be debated by the General Synod, then, unless—
  - (a) notice is given by a member of the General Synod in accordance with its Standing Orders that he wishes the order to be debated, or

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- (b) notice is so given by any such member that he wishes to move an amendment to the order and at least twenty-five other members of the Synod indicate when the amendment is called that they wish the amendment to be moved, the order shall for the purposes of subsection (3) above be deemed to have been approved by the General Synod without amendment.
- (5) The <sup>M3</sup>Statutory Instruments Act 1946 shall apply to an Ecclesiastical Judges and Legal Officers (Fees) Order approved by the General Synod as if it were a statutory instrument and were made when so approved and as if this Measure were an Act providing that any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Marginal Citations**

**M3** 1946. c. 36.

**PART III**

*Miscellaneous and General*

**7 Recovery of fees.**

Any fee payable by virtue of any order made under this Measure shall be recoverable as a debt.

**8 Reimbursement of archbishops or bishops.**

Where an archbishop or bishop has paid any sum by virtue of any order made or deemed to be made under this Measure and the liability to pay that sum was imposed on him as archbishop or bishop, the Church Commissioners shall reimburse that sum to the archbishop or bishop.

**9 Private, local and personal Acts which are inconsistent with Parochial Fees Orders.**

Schedule 1 to this Measure which relates to private, local and personal Acts which are inconsistent with a Parochial Fees Order shall have effect.

**10 Interpretation.**

In this Measure the following expressions have the meanings hereby respectively assigned to them—

“ecclesiastical judges” means the Dean of the Court of Arches and the Auditor of the Chancery Court of York, the Vicars General of the provinces of Canterbury and York, the Commissary General and Diocesan Chancellors;

“legal officers” means the provincial registrars, diocesan registrars, bishops’ legal secretaries and chapter clerks;

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“parish” means any ecclesiastical parish or other place the incumbent or minister whereof either is entitled to retain for his own benefit or is under a duty to pay over to any other person the parochial fees chargeable;

“parochial fees” mean any fees payable to a parochial church council, to a clerk in Holy Orders, or to any other person performing duties in connection with a parish for, or in respect of, the solemnization or performance of church offices or the erection of monuments in churchyards or such other services or matters as may by law or custom be included in a Parochial Fees Order and such other services or matters for which, in the opinion of the Church Commissioners, the payment of fees is appropriate, except fees or other charges payable under section 214 of, and Schedule 26 to, the Local Government Act 1972 (burial fee) or fees payable under section 62 of the <sup>M4</sup>Cremation Act 1902 (cremation service fees).

#### Marginal Citations

**M4** 1902 c. 8.

## 11 Repeals, consequential amendments and transitional provisions.

- (1) The <sup>M5</sup>Ecclesiastical Fees Measure 1962 is hereby repealed.
- (2) In section 63 of the <sup>M6</sup>Ecclesiastical Jurisdiction Measure 1963 for the words from “Ecclesiastical Fees” to the end of the section there shall be substituted the words “Ecclesiastical Fees Measure 1986” and in section 6(3) of the <sup>M7</sup>Faculty Jurisdiction Measure 1964 for the words “Ecclesiastical Fees Measure 1962” there shall be substituted the words “Ecclesiastical Fees Measure 1986”.
- (3) The transitional provisions in Schedule 2 to this Measure shall have effect.

#### Marginal Citations

**M5** 1962 No. 1.

**M6** 1963 No. 1.

**M7** 1964 No. 5.

## 12 Short title, extent and commencement.

- (1) This Measure may be cited as the Ecclesiastical Fees Measure 1986.
- (2) This Measure shall extend to the whole of the provinces of Canterbury and York except the Channel Islands and the Isle of Man, but may be applied to the Channel Islands, as defined by the <sup>M8</sup>Channel Islands (Church Legislation) Measures 1931 <sup>M9</sup> and 1957, or either of them, in accordance with the provisions of those measures and may be extended to the Isle of Man by or under Act of Tynwald.
- (3) This Measure shall come into force on such day as the Archbishops of Canterbury and York may jointly appoint and different days may be so appointed for different provisions.

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**Modifications etc. (not altering text)**

**C2** Power of appointment conferred by s. 12(3) fully exercised: 1.9.1986 appointed by Instrument dated 24.7.1986

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**Marginal Citations**

**M8** 1931 No. 4.

**M9** 1957 No. 1.

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## SCHEDULES

### SCHEDULE 1

#### PRIVATE, LOCAL AND PERSONAL ACTS WHICH ARE INCONSISTENT WITH PAROCHIAL FEES ORDERS

- 1 Where a Parochial Fees Order is inconsistent with a private, local or personal Act which affects a parish, the parochial church council or, if there is no parochial church council, the incumbent or minister may apply to the Church Commissioners requesting them to prepare an order providing for the amendment or repeal of that Act in order to permit the Parochial Fees Order to apply to the parish; and, on receiving such an application, the Church Commissioners may prepare a draft order accordingly.
- 2 Where the Church Commissioners prepare a draft order under paragraph 1 above, they shall—
- (a) send a copy of that order to the bishop of the diocese in which the parish is situated, the parochial church council (if any) and the incumbent or minister of the parish, and any person whose power of fixing fees or whose right to receive fees is affected by the order, together with a notice that consideration will be given to any representations sent in writing to them before such date (which shall not be less than one month from the date of the sending of the notice) as may be specified in the notice; and
  - (b) cause a copy of the order to be posted for a period of not less than one month on or near the principal door of the church of the parish, or at least one of such churches if there be more than one, together with a notice that consideration will be given to any representations sent in writing to them before such date (which shall not be less than one month from the date when the copy of the order was first posted), as may be specified in the notice; and
  - (c) publish an advertisement in at least one local newspaper circulating in the parish stating the purport of the draft order and at what place in the parish it may be inspected (which may be on or near the church door mentioned in sub-paragraph (b) above or such other place as the Church Commissioners may decide) and that consideration will be given to any representations sent in writing to them before such date (which shall not be less than one month from the date when the advertisement was published) as may be specified in the advertisement.
- 3 The Church Commissioners shall consider all representations made to them under paragraph 2 above and may make such amendments in the order as they think fit.
- 4 When the periods during which representations may be made under paragraph 2 above have all expired and the Church Commissioners have considered all representations made to them, they may, by applying their seal, make the order or, as the case may be, the order as amended under paragraph 3 above.
- 5 The <sup>M10</sup>Statutory Instruments Act 1946 shall apply to an order sealed by the Church Commissioners under paragraph 4 above as if it were a statutory instrument and



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were made when sealed by the Commissioners and as if this Measure were an Act providing that the order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Marginal Citations**

**M10** 1946 c. 36.

- 6 The Church Commissioners shall send copies of any order made under this Schedule to every person or body specified in subparagraph 2(a) above and shall publish in the London Gazette a notice stating they have made the order and specifying a place where copies of the order may be obtained.

## SCHEDULE 2

### TRANSITIONAL PROVISIONS

- 1 No order made under Part I of this Measure shall be binding on a clerk in Holy Orders or other person performing duties in connection with a parish to whom the provisions of section 2(4) of the <sup>M11</sup>Ecclesiastical Fees Measure 1962 applied immediately before the coming into force of this provision without his consent in writing; but such consent when given shall be irrevocable.

**Marginal Citations**

**M11** 1962 No. 1.

- 2 Until the Fees Advisory Commission is constituted under this Measure, the members of the Fees Committee appointed under section 1(3) of the Ecclesiastical Fees Measure 1962 shall, notwithstanding the repeal of that Measure by this Measure, continue to hold office and may perform any of the functions of the Fees Advisory Commission under this Measure.
- 3 Notwithstanding the repeal by this Measure of the Ecclesiastical Fees Measure 1962, any order made under that Measure relating to legal officers' fees or parochial fees shall be deemed to have been made under this Measure; and any fee payable at the coming into force of this Measure under an existing order relating to legal officers' fees or parochial fees shall be deemed to be payable under this Measure.
- 4 Any sum payable to any person under the provisions of section 5 of the Ecclesiastical Fees Measure 1962 shall, if reimbursible by the Church Commissioners at the coming into force of this provision, be deemed to be reimbursible under this Measure.
- 5 Nothing in this Schedule shall be taken as prejudicing the application of sections 16 and 17 of the <sup>M12</sup>Interpretation Act 1978.

**Marginal Citations**

**M12** 1978 c. 30.

**Status:**

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**Changes to legislation:**

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