



# Ecclesiastical Fees Measure 1986

1986 No. 2

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## 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 [<sup>F1</sup>Archbishops' Council] 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 [<sup>F1</sup>Archbishops' Council] consider necessary or desirable.

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## Subordinate Legislation Made

**P1** [S. 1](#): power conferred by [s. 1](#) exercised by [S.I. 1991/1758](#)

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## Textual Amendments

**F1** Words in [s. 1](#) substituted (1.1.1999) by [S.I. 1998/1715](#), arts. 1(2)(4), 4(4), [Sch. 2 para. 2\(1\)](#); [Instrument dated 14.10.1998 made by Archbishops of Canterbury and York](#)

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## Modifications etc. (not altering text)

**C1** [S. 1](#): Functions of the Church Commissioners transferred (1.1.1999) to Archbishops' Council by [S.I. 1998/1715](#), arts. 1(2)(4), 3; [Instrument dated 14.10.1998 made by Archbishops of Canterbury and York](#)

*Status: Point in time view as at 01/01/1999.*

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

## 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 [F<sup>2</sup>Archbishops' Council].
- (2) Where a draft order is referred to the [F<sup>2</sup>Archbishops' Council.] under subsection (1) above then—
- (a) if it has been approved by the General Synod without amendment, the [F<sup>2</sup>Archbishops' Council.] shall, by applying their seal, make the order;
  - (b) if it has been approved by the General Synod with amendment, the [F<sup>2</sup>Archbishops' Council.] 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 [F<sup>2</sup>Archbishops' Council].
- (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 <sup>F<sup>3</sup></sup> . . . ,
- 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>M<sup>1</sup></sup>Statutory Instruments Act 1946 shall apply to a Parochial Fees Order sealed by the [F<sup>2</sup>Archbishops' Council.] 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.

### Textual Amendments

- F2** Words in s. 2 substituted (1.1.1999) by S.I. 1998/1715, arts. 1(2)(4), 4(4), **Sch. 2 para. 2(1)**; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York
- F3** Words in s. 2(3)(b) omitted (1.9.1995) by virtue of 1995 No. 2, s. 14; Instrument dated 26.7.1995 made by Archbishops of Canterbury and York

### Modifications etc. (not altering text)

- C2** S. 2: Functions of the Church Commissioners transferred (1.1.1999) to Archbishops' Council S.I. 1998/1715, **arts. 1(2)(4), 3**; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York
- C3** S. 2(3): Functions of Standing Committee transferred (1.1.1999) to Business Committee by S.I. 1998/1715, arts. 1(2)(4), 2, **Sch. 1**; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York

### Marginal Citations

- M1** 1946 c. 36.

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### **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.

## **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
  - [<sup>F4</sup>(e) a member of the General Synod appointed by the Appointments Committee of the Church of England,]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—

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- (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 [F5Appointments Committee of the Church of England] shall appoint as a member of the Commission another member of [F6the General Synod], 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.

#### Textual Amendments

- F4** S. 4(1)(e) substituted (1.1.1999) by S.I. 1998/1715, arts. 1(2)(4), 4(4), **Sch. 2 para. 2(2)**; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York
- F5** Words in s. 4(4)(b) substituted (1.1.1999) by S.I. 1998/1715, arts. 1(2)(4), 4(4), **Sch. 2 para. 2(3)(a)**; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York
- F6** Words in s. 4(4)(b) substituted (1.1.1999) by S.I. 1998/1715, arts. 1(2)(4), 4(4), **Sch. 2 para. 2(3)(b)**; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York

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

- C4** S. 4: Functions of Standing Committee transferred (1.1.1999) to Appointments Committee by S.I. 1998/1715, arts. 1(2)(4), 2, **Sch. 1 para. 2(1)**; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York

## 5 Legal Officers (Annual Fees) Orders.

- (1) The Fees Advisory Commission may make recommendations as to the annual fees to be paid to [F7ecclesiastical judges and] 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 <sup>F8</sup> . . . 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 [F9, including provision for payments in respect of reasonable expenses incurred by ecclesiastical judges and legal officers on travel, subsistence, accommodation and the holding of court hearings].
- (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 [F10an order made under subsection (1) above] 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.

*Status: Point in time view as at 01/01/1999.*

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

- (5) The <sup>M2</sup>Statutory Instruments Act 1946 shall apply to [<sup>F10</sup>an order made under subsection (1) above] 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.

#### Subordinate Legislation Made

- P2** S. 5: power conferred by s. 5 exercised by S.I. 1991/1757

#### Textual Amendments

- F7** Words in s. 5(1) inserted (1.3.1993) by *Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1)*, s. 10, **Sch. 6 para. 2(a)(i)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York.
- F8** Words in s. 5(1) repealed (1.3.1993) by *Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1)*, s. 10, **Sch. 6 para. 2(a)(ii)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York.
- F9** Words in s. 5(2) inserted (1.3.1993) by *Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1)*, s. 10, **Sch. 6 para. 2(b)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York.
- F10** Words in s. 5(4) and (5) substituted (1.3.1993) by *Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1)*, s. 10, **Sch. 6 para. 2(c)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York.

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

- C5** S. 5 modified (retrospectively) by *Church of England (Miscellaneous Provisions) Measure 2018 (No. 7)*, **ss. 8(6), 17(2)(b)**
- C6** S. 5(4): functions of Standing Committee transferred (1.1.1999) to Business Committee by S.I. 1998/1715, arts. 1(2)(4), 2, **Sch. 1**; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York

#### 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 [<sup>F11</sup>to such persons as are so specified, and the Commission may make an 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 [<sup>F12</sup>, including provision for payments to be made in respect of reasonable expenses incurred by ecclesiastical judges and legal officers on travel, subsistence, accommodation and the holding of court hearings].
- (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.

*Status: Point in time view as at 01/01/1999.*

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

- (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
  - (b) notice is so given by any such member that he wishes to move an amendment to the order<sup>F13</sup> . . . ,
- 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.

#### Subordinate Legislation Made

- P3** S. 6: power conferred by s. 6 exercised by [S.I. 1991/1756](#)  
S. 6: for previous exercises of power see Index to the Government Orders

#### Textual Amendments

- F11** Words in s. 6(1) substituted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1\)](#), s. 10, **Sch. 6 para. 3(a)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York.
- F12** Words in s. 6(2) inserted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1\)](#), s. 10, **Sch. 6 para. 3(b)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York.
- F13** Words in s. 6(4)(b) omitted (1.9.1995) by virtue of [1995 No. 2](#), s. 14; Instrument dated 26.7.1995 made by Archbishops of Canterbury and York

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

- C7** S. 6(4): Functions of Standing Committee transferred (1.1.1999) to Business Committee by [S.I. 1998/1715](#), arts. 1(2)(4), 2, **Sch. 1**; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York

#### 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.

*Status: Point in time view as at 01/01/1999.*

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## **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 [<sup>F14</sup>, and the deputies of any of them];

“legal officers” means the provincial registrars, diocesan registrars, bishops’ legal secretaries and chapter clerks [<sup>F15</sup>, and the deputy provincial and diocesan registrars];

“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).

### **Textual Amendments**

**F14** Words in s. 10 inserted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1\)](#), s. 10, [Sch. 6 para. 4\(a\)](#) (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York.

**F15** Words in s. 10 inserted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1\)](#), s. 10, [Sch. 6 para. 4\(b\)](#) (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York.

### **Marginal Citations**

**M4** 1902 c. 8.

*Status: Point in time view as at 01/01/1999.*

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

## 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.

### Modifications etc. (not altering text)

- C8** Power of appointment conferred by s. 12(3) fully exercised: 1.9.1986 appointed by Instrument dated 24.7.1986

### Marginal Citations

- M8** 1931 No. 4.  
**M9** 1957 No. 1.



**Status:**

Point in time view as at 01/01/1999.

**Changes to legislation:**

There are currently no known outstanding effects for the Ecclesiastical Fees Measure 1986.