



# Ecclesiastical Jurisdiction and Care of Churches Measure 2018

2018 No. 3

## PART 5

### MISCELLANEOUS

#### *Fees*

#### **84 Fees Advisory Commission: continuation and membership**

- (1) There is to continue to be a body known as the Fees Advisory Commission.
- (2) The members of the Commission are—
  - [<sup>F1</sup>(a) one person who is a diocesan or suffragan bishop nominated by the House of Bishops (regardless of whether that person is a member of that House);]
  - (b) one person who is a Church Commissioner or an officer of the Church Commissioners nominated by them;
  - (c) one person who is the chair of a diocesan board of finance nominated by representatives of dioceses (see subsection (4));
  - (d) one person who is the registrar of a diocese nominated by the Ecclesiastical Law Association (see subsection (5));
  - (e) one person who is the chancellor of a diocese nominated by the Ecclesiastical Judges Association (see subsection (6));
  - (f) either the registrar of the province of Canterbury or the registrar of the province of York, whichever of them is nominated by the two registrars acting jointly;
  - (g) three persons appointed by the Appointments Committee of the Church of England (see subsection (7)).
- (3) The chair of the Commission is the member chosen by the Commission from among the members appointed under subsection (2)(g).

*Status: Point in time view as at 01/09/2020.*

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- (4) In subsection (2)(c), “representatives of dioceses” means persons—
- (a) who are officers or members of a diocesan board of finance or are members of the House of Clergy or House of Laity of the General Synod elected for a diocese, and
  - (b) who are chosen under arrangements approved by the Archbishops of Canterbury and York acting jointly to represent dioceses in consultations on financial matters.
- (5) In subsection (2)(d), the reference to the Ecclesiastical Law Association is a reference to the group of persons commonly known by that name (being a group which includes lawyers involved in the work of the Church of England) regardless of the form in which the group is for the time being constituted.
- (6) In subsection (2)(e), the reference to the Ecclesiastical Judges Association is a reference to the group of persons commonly known by that name (being a group which includes the chancellor of each diocese and the Dean of the Arches and Auditor), regardless of the form in which the group is for the time being constituted.
- (7) A person may not be appointed under subsection (2)(g) if he or she is eligible for membership under subsection (2)(a) to (f); and at least one, but no more than two, of the three persons appointed under subsection (2)(g) must be a member of the House of Clergy or House of Laity of the General Synod.

#### Textual Amendments

- F1** S. 84(2)(a) substituted (1.3.2019) by [Church of England \(Miscellaneous Provisions\) Measure 2018 \(No. 7\)](#), **ss. 8(3)**, 17(3); [S.I. 2019/67](#), **art. 2(1)(g)**

#### Commencement Information

- II** S. 84 in force at 1.9.2018 by [S.I. 2018/720](#), **art. 2**

## 85 Fees Advisory Commission: term of office and procedure

- (1) As soon as practicable after each ordinary election of the General Synod, new members of the Fees Advisory Commission are to be nominated or appointed in accordance with section 84.
  - (2) A member of the Commission holds office until a new member is nominated or appointed to replace him or her under subsection (1).
  - (3) If a member of the Commission dies or resigns from office, the persons responsible for nominating or appointing the member under section 84 must, as soon as practicable, nominate or appoint in accordance with that section a person to fill the vacancy.
  - (4) A person nominated or appointed under subsection (3) holds office only for the unexpired portion of the term of office of the person whose place is being filled.
  - (5) A member of the Commission (including one nominated or appointed under subsection (3)) is eligible for renomination or reappointment.
- [<sup>F2</sup>(5A) If the chair of the Commission considers that it has business which can properly be conducted by correspondence, the chair may arrange for written proposals requiring the Commission's approval to be circulated to members.

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- (5B) Unless objection is received from members in such numbers and within such period from the date on which they were sent as the Commission may specify, the proposals are to be treated on the expiry of that period as approved by the Commission as if they had been approved at a duly convened meeting.
- (5C) The Commission may delegate to the chair the approval of any matter which requires decision and which, because of its urgency, cannot be dealt with at a meeting of the Commission or by correspondence as mentioned in subsection (5A).
- (5D) A delegation under subsection (5C)—
- (a) may be general or specific, and
  - (b) is subject to such conditions as the Commission may from time to time impose.]
- (6) The quorum of the Commission is three, of whom—
- (a) one must be a member under section 84(2)(a), (b) or (c),
  - (b) one must be a member under section 84(2)(d), (e) or (f), and
  - (c) one must be a member under section 84(2)(g).
- (7) Subject to that, the Commission may regulate its own procedure.
- (8) The validity of anything done by the Commission is not affected by a vacancy in its membership.

#### Textual Amendments

**F2** S. 85(5A)-(5D) inserted (1.3.2019) by Church of England (Miscellaneous Provisions) Measure 2018 (No. 7), ss. 8(4), 17(3); S.I. 2019/67, art. 2(1)(g)

#### Commencement Information

**I2** S. 85 in force at 1.9.2018 by S.I. 2018/720, art. 2

## 86 Fees orders

- (1) The Fees Advisory Commission must inform itself of the duties of the offices of ecclesiastical judges and the duties of the offices of legal officers and may make recommendations as to the annual fees to be paid to them in relation to such of those duties as it specifies.
- (2) The Commission may make recommendations as to the fees to be paid to such persons as it specifies in relation to—
- (a) such duties carried out by ecclesiastical judges as it specifies;
  - (b) such duties carried out by legal officers as it specifies;
  - (c) such functions carried out by advisory committees or archdeacons in connection with relevant faculty proceedings as it specifies.
- (3) The Commission may make an order to give effect to its recommendations under subsection (1) or (2).
- [<sup>F3</sup>(3A) An order under this section may contain provision as to—
- (a) exemptions from or reductions in fees;
  - (b) remission of fees in whole or in part.]

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- (4) An order under this section may contain such incidental provision as the Commission considers necessary or desirable; and the provision which may be made includes, in particular, provision relating to payment for reasonable expenses incurred by ecclesiastical judges or legal officers—
- (a) on the holding of court hearings, or
  - (b) on travel, subsistence and accommodation.
- [<sup>F4</sup>(4A) Any order under this section which includes provision under subsection (3A) must also include incidental provision under subsection (4) to require the diocesan board of finance to pay the amounts which would be payable were it not for the exemption, reduction or remission provided for by the order.]
- [<sup>F5</sup>[<sup>F6</sup>(4B)] An order under this section may provide for a fee, or a matter relating to the payment of a fee, to be determined—
- (a) by a court, ecclesiastical judge, legal officer or other person;
  - (b) by reference to provision made under an Act of Parliament.]
- (5) A fee payable under an order under this section is recoverable as a debt.
- (6) Where an archbishop or bishop has paid a sum under an order under this section, and the liability to pay was imposed on the archbishop or bishop in that capacity, the Church Commissioners must reimburse the sum to the archbishop or bishop.
- (7) “Ecclesiastical judge” means—
- (a) the Dean of the Arches and Auditor,
  - (b) the Vicar-General of either province,
  - (c) the chancellor of a diocese,
  - (d) the president of tribunals,
  - (e) the chair of a disciplinary tribunal for the purposes of the Clergy Discipline Measure 2003, or
  - (f) the deputy of a person specified in paragraphs (a) to (e).
- (8) “Legal officer” means—
- (a) the registrar of a province,
  - (b) the registrar of a diocese,
  - (c) the administrator of a cathedral,
  - (d) the registrar of tribunals for the purposes of the Clergy Discipline Measure 2003, or
  - (e) the deputy of a person specified in paragraph (a) or (b).
- (9) “Relevant faculty proceedings” means proceedings, or proposed proceedings, for obtaining a faculty in the case of a building which is subject to the faculty jurisdiction as a result of its inclusion in the list under section 38, other than a building within subsection (2)(e) of that section (sharing agreements).
- (10) The references in subsection (9) to a building are to be read with section 39(3) (inclusion of monuments, curtilages, structures etc.).
- (11) An order under this section—
- (a) must be laid before the General Synod, and
  - (b) may not come into force unless—

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- (i) in the case of an order giving effect to recommendations under subsection (1), it has been approved by the Synod, or
  - (ii) in the case of an order giving effect to recommendations under subsection (2), it has been approved by the Synod, whether with or without amendment.
- (12) If the Business Committee of the General Synod decides that the Synod does not need to debate an order under this section giving effect to recommendations under subsection (1), the order is deemed to be approved by the Synod unless notice is given by a member of the Synod in accordance with its Standing Orders that the member wishes the order to be debated.
- (13) If the Business Committee decides that the Synod does not need to debate an order under this section giving effect to recommendations under subsection (2), the order is deemed to be approved by the Synod without amendment unless notice is given by a member of the Synod in accordance with its Standing Orders that the member—
- (a) wishes the order to be debated, or
  - (b) wishes to move an amendment to the order.

#### Textual Amendments

- F3** S. 86(3A) inserted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 4(1)**, 16(3); S.I. 2020/835, art. 2
- F4** S. 86(4A) inserted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 4(2)**, 16(3); S.I. 2020/835, art. 2
- F5** S. 86(4A) inserted (retrospectively) by Church of England (Miscellaneous Provisions) Measure 2018 (No. 7), **ss. 8(5)(6)**, 17(2)(b)
- F6** S. 86(4A) renumbered as s. 86(4B) (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 4(2)**, 16(3); S.I. 2020/835, art. 2

#### Commencement Information

- I3** S. 86 in force at 1.9.2018 by S.I. 2018/720, **art. 2**

## 87 Fees: power of chancellor

- (1) Where a faculty is or has been granted for a relevant purpose, the chancellor of the diocese may determine the amount of the fees payable to the PCC or the diocesan board of finance.
- (2) Each of the following is a relevant purpose—
- (a) the introduction of a monument in a church;
  - (b) an additional inscription on a monument in a church;
  - (c) the erection of a monument in a churchyard;
  - (d) an additional inscription on a monument in a churchyard;
  - (e) the reservation of a grave space;
  - (f) the construction of a vault;
  - (g) the burial of cremated remains in or under a church or in a closed churchyard.
- (3) The reference in subsection (1) to a faculty is, where the relevant purpose is within subsection (2)(c), (d) or (g), a reference to a particular (as opposed to general) faculty.
- (4) In this section—

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“burial” and “monument” each have the same meaning as in Schedule A1 to the Ecclesiastical Fees Measure 1986;

“church” and “churtyard” each have the same meaning as in that Measure (see section 10 of that Measure).

(5) This section does not affect any power which exists apart from this section.

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**Commencement Information**

**14** [S. 87](#) in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

**Status:**

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**Changes to legislation:**

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