

Draft Ecclesiastical Fees (Amendment) Measure

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A DRAFT OF MEASURE

To make further provision with respect to ecclesiastical fees; to amend the constitution of the Fees Advisory Commission and the provisions for certain annual fees; and for purposes connected therewith.

PART 1

PAROCHIAL FEES

1 Preparation of Parochial Fees Order

- (1) For section 1 of the Ecclesiastical Fees Measure 1986 (1986 No. 2) there shall be substituted the following section—

“1 Preparation of Parochial Fees Order

- (1) The 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 payable to a parochial church council or to a diocesan board of finance or to both in respect of the matters set out in Schedule A1 where those matters relate to duties carried out by a clerk in holy orders or by a duly licensed deaconess, reader or lay worker
- (2) A draft order prepared under subsection (1) may prescribe that no fee shall be payable in respect of any matter that may be specified
- (3) A draft order prepared under subsection (1) may contain such incidental matters as the Archbishops’ Council shall consider necessary or desirable, which may include provision specifying costs and expenses which are to be included in the prescribed fee in respect of any specified matter.
- (4) Subject to subsection (5), a draft order prepared under subsection (1) may prescribe fees for a period or periods, not exceeding, in total, a period of 5 years and any increase in fees may be prescribed by specifying that increase or by means of an arithmetical formula or a formula related to a published index of price or earnings increases which is of general application or by means of a combination of both such formulas
- (5) If, before the expiry of the period for which fees have been prescribed by a Parochial Fees Order, the Archbishops’ Council has not made a further order, or has made a further order which has been annulled in pursuance of a resolution of either House of Parliament, the fees

prescribed by the Parochial Fees Order shall continue in force until a further order comes into force.

- (6) The Archbishops' Council may prepare a draft of an order to amend Schedule A1 by altering, omitting or adding to any of the matters set out, including any note in Part 2 (referred to in this Measure as a "Scheduled Matters Amending Order").

- (7) In this section—

“parochial church council” means—

- (a) where the fee relates to a burial or funeral service taking place in a church or churchyard, the council of the parish where the church or churchyard is situated,
- (b) where the fee relates to a burial or funeral service which takes place otherwise than in a church or churchyard, the council of the parish on whose electoral roll the deceased was entered, provided that where the deceased was entered on the electoral roll of more than one parish, the fee shall be shared equally between each of the councils of those parishes,
- (c) where the fee relates to a burial or funeral service which takes place otherwise than in a church or churchyard and the deceased was not entered on any electoral roll, the council of the parish where the deceased had his or her usual place of residence, and
- (d) in any other case, the council of the parish where the service or other event to which the fee relates takes place;

“diocesan board of finance” means—

- (a) where the fee relates to a burial or funeral service which takes place in a church or churchyard, the diocesan board of finance of the diocese in which the church or churchyard is situated,
- (b) where the fee relates to a burial or funeral service which takes place otherwise than in a church or churchyard, the diocesan board of finance of the diocese within which the deceased was a parishioner, provided that, where the deceased was a parishioner in more than one diocese, the fee shall be shared equally between each of the diocesan boards of finance, and, for this purpose, the parish in question shall be construed in accordance with paragraphs (b) and (c) of the definition of “parochial church council”, and
- (c) in any other case, the diocesan board of finance of the diocese where the service or other event to which the fee relates takes place.

- (8) The incumbent or priest in charge of the benefice or, where there is no such person, the rural dean of the deanery, in which the relevant parish or the place where the service or other event takes place is situated, may, after consulting the person nominated by the bishop of the diocese in which the benefice or deanery is situated, waive any fee payable to the Diocesan Board of Finance, in a particular case.

- (9) The incumbent or priest in charge of the benefice or, where there is no such person, the rural dean of the deanery, in which the relevant parish or the place where the service or other event takes place is situated, may, after consulting the churchwardens of that parish, waive any fee payable to the parochial church council of that parish, in a particular case.
 - (10) This section applies in relation to fees payable under section 5 of the Burial Laws Amendment Act 1880 (43 & 44 Vict. c. 41) as it applies to the fees mentioned in subsection (1).
 - (11) This section shall have effect notwithstanding section 12 of the Cremation Act 1902 (2 Edw. 7 c. 8)."
- (2) Schedule A1 to the 1986 Measure is set out in Schedule 1 to this Measure

2 Amendment of section 2 of the 1986 Measure

In subsections (1), (2), (3) and (4), after the words "Parochial Fees Order" there shall be inserted, in each place, the words "or Scheduled Matters Amending Order"

PART 2

ECCLESIASTICAL JUDGES' AND LEGAL OFFICERS' FEES

3 Constitution of Fees Advisory Commission and Ecclesiastical Judges and Legal Officers (Annual Fees) Orders

The 1986 Measure shall be further amended as follows—

- (a) For section 4 there shall be substituted the following section—

"4 Constitution of Fees Advisory Commission

- (1) There shall be a Fees Advisory Commission, which shall be constituted as follows—
 - (a) one member shall be a member of the House of Bishops of the General Synod nominated by that House;
 - (b) one member shall be a Church Commissioner or an officer of the Church Commissioners nominated by them;
 - (c) one member shall be the chairman of a diocesan board of finance nominated by representatives of dioceses;
 - (d) one member shall be a registrar of a diocese nominated by the Ecclesiastical Law Association;
 - (e) one member shall be a chancellor of a diocese nominated by the Ecclesiastical Judges Association;
 - (f) one member shall be the registrar of the province of Canterbury or the province of York nominated by the two registrars acting jointly;
 - (g) three members shall be appointed by the Appointments Committee of the Church of England who are not eligible for nomination under any of paragraphs (a) to (f), of whom one must be a member of the House of Clergy or the House of Laity of the General Synod.

- (2) In the event of a disagreement between the registrars of the provinces of Canterbury and York as to the nomination of a member under subsection (1)(f), the first such nomination after the coming into force of section 3 of the Ecclesiastical Fees (Amendment) Measure 200... shall be decided by drawing lots and, thereafter, the registrars shall serve for alternate terms of office.
- (3) As soon as practicable after each ordinary election of the General Synod new members of the Commission shall be nominated or appointed and shall hold office until, after the next such ordinary election, a new member is nominated or appointed to replace that member
- (4) In subsection (1)(c) “representatives of dioceses” means persons, being officers or members of a diocesan board of finance or members of the House of Clergy or the House of Laity of the General Synod elected for a diocese, chosen under arrangements approved by the Archbishops of Canterbury and York acting jointly to represent dioceses in consultations on financial matters.
- (5) The members of the Commission shall be eligible for renomination or reappointment
- (6) If any member dies or resigns his or her office the relevant body responsible for appointing or nominating that member shall, as soon as practicable, appoint or nominate a member to fill the vacancy and a person so appointed or nominated shall hold office only for the unexpired portion of the term of office of the person in whose place that person was appointed or nominated and shall be eligible for reappointment or renomination.
- (7) There shall be a member known as the Chair of the Commission, who shall be chosen by the Commission from among the members appointed under subsection (1)(g).
- (8) The quorum of the Commission shall be three members, of whom one member shall be a member nominated under subsection (1)(a), (b) or (c), one member shall be a member nominated under subsection 1(d), (e) or (f) and one member shall be a member appointed under subsection (1)(g).
- (9) Subject to subsection (8), the Commission may act notwithstanding any vacancy in its membership.
- (10) Subject to subsection (8), the Commission shall have power to regulate its own procedure.”; and
 - (b) for section 5(1) there shall be substituted the following subsection—
 - “(1) The Fees Advisory Commission shall keep under review the duties of the offices of ecclesiastical judges and legal officers and may make recommendations as to the annual fees to be paid to them in respect of such of those duties as are specified by the Commission, and the Commission may make an order to give effect to its recommendations.”

PART 3

GENERAL

4 Consequential amendments and repeals

- (1) The 1986 Measure shall be further amended as follows—
 - (a) section 3 is repealed; and
 - (b) in section 10—
 - (i) the definition of “parish” shall be omitted, and
 - (ii) for the definition of “parochial fees” there shall be substituted the following definition—

“parochial fees” means any fees prescribed in respect of any of the matters set out in Schedule A1.
- (2) The enactments referred to in Schedule 2 shall have effect subject to the amendments set out in that Schedule, being amendments consequential on Part 1.
- (3) In section 20(1) of the Marriage Act 1949 (12, 13 & 14 Geo. 6 c 76) the words “provisions concerning the amount, appropriation or apportionment of dues and such other” are repealed.

5 Transitional provisions

- (1) Any member of the Fees Advisory Commission holding office on the coming into force of this Measure shall continue in office until a new member is nominated or appointed in that member’s place.
- (2) Any incumbent holding office on the coming into force of Part 1 who is entitled to receive a fee relating to any matter under a Parochial Fees Order shall, if—
 - (a) he or she has not assigned that fee to the diocesan board of finance for the diocese in which the benefice of which he or she is the incumbent is situated, and
 - (b) within the period of 2 months from the coming into force of Part 1 he or she notifies the bishop of that diocese in writing that he or she wishes to preserve that entitlement,so long as he or she holds office, be entitled to continue to receive any fee payable to a diocesan board of finance under any Parochial Fees Order.
- (3) Any Parochial Fees Order in force on the coming into force of Part 1 shall continue in force until it is replaced or amended by a subsequent Parochial Fees Order

6 Citation, commencement and extent

- (1) This Measure may be cited as the Ecclesiastical Fees (Amendment) Measure 200....
- (2) This Measure shall come into force on such day as the Archbishops of Canterbury and York shall jointly appoint, and different days may be appointed for different provisions.
- (3) This Measure shall extend to the whole of the provinces of Canterbury and York except the Channel Islands and Isle of Man, but—

- (a) may be extended to the Channel Islands as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957, or either of them, in accordance with those Measures, and
 - (b) if an Act of Tynwald or an instrument made under an Act of Tynwald so provides, shall extend to the Isle of Man subject to such exceptions, adaptations or modifications as may be specified in the Act of Tynwald or instrument
- (4) In this Measure “the 1986 Measure” means the Ecclesiastical Fees Measure 1986 (1986 No.2)

SCHEDULES

SCHEDULE 1

Section 1(2)

SCHEDULE INSERTED AS SCHEDULE A1 TO THE 1986 MEASURE

PART 1

TABLE OF MATTERS TO WHICH PAROCHIAL FEES RELATE

BAPTISMS

Certificate issued at time of baptism
Short certificate of baptism given under Section 2 of the Baptismal Registers Measure 1961 (1961 No 2)

MARRIAGES

Publication of banns of marriage
Certificate of banns issued at time of publication
Marriage service in church
Service of Prayer and Dedication after a Civil Marriage in church
Service of Thanksgiving for marriage in church

FUNERALS AND BURIALS

A Service in church
Funeral service in church, whether taking place before or after burial or cremation
Burial in churchyard following on from service in church
Burial in cemetery immediately preceding or following on from service in church
Cremation immediately preceding or following on from service in church
Burial of body in churchyard on separate occasion
Burial of cremated remains in churchyard or other lawful disposal of remains on separate occasion
Burial in cemetery on separate occasion
Memorial service in church
B No service in church
Service at graveside
Service in crematorium or cemetery
Burial of body in churchyard
Burial of cremated remains in churchyard or other lawful disposal of remains

C Certificate issued at time of burial

MONUMENTS IN CHURCHYARDS

Permitted in accordance with rules, regulations or directions made by the Chancellor including those relating to a particular churchyard or part of a churchyard (but excluding a monument authorised by a particular faculty) including inscription on existing monument

SEARCHES IN CHURCH REGISTERS ETC

Searching registers of marriages for period before 1st July 1837—

(for up to 1 hour)

(for each subsequent hour or part of an hour)

Searching registers of baptism or burials (including provision of one copy of any entry)

(for up to 1 hour)

(for each subsequent hour or part of an hour)

Each additional copy of an entry in a register of baptisms or burials

Inspection of instrument of apportionment or agreement for exchange of land for tithes deposited under Tithe Act 1836 (1836 6 & 7 Will. 4 c 71)

Furnishing copies of above (for every 72 words)

PART 2

EXPLANATORY NOTES ON PART 1

- 1 Burial on a separate occasion
 In relation to the fee for a burial in a churchyard, “on a separate occasion” means on any occasion other than immediately preceding or following on from a service in church and “immediately preceding” includes the day before the day on which the service, burial or cremation takes place and “following on” includes the day after the service, burial or cremation takes place.
- 2 Burial of infant
 No fee is payable in respect of the burial of a still-born infant, or for the funeral or burial of a child dying before attaining the age of 16 years.
- 3 Burial of cremated remains in churches or closed churchyards
 Where cremated remains are buried in or under a church or in a closed churchyard, the fees payable to the parochial church council and the diocesan board of finance or either of them are—
 - (a) where burial is authorised by a general faculty, the fee prescribed for burial in a churchyard;
 - (b) where burial is authorised by a particular faculty, such sums as may be determined by the Chancellor, who shall specify the person or persons entitled to receive them.
- 4 Monuments in churchyards
 Different fees may be prescribed for different types of monument and a separate fee may be prescribed for inscription on a monument

Where a monument in a churchyard is erected or an additional inscription on a monument is made under the authority of a particular faculty, the fees payable to the parochial church council and the diocesan board of finance or either of them shall be such sums as may be determined by the Chancellor who shall specify the person or persons entitled to receive them.

5 Monuments in churches

Where a faculty is granted for the erection of a monument in a church or any additional inscription thereon, the fees payable to the parochial church council and the diocesan board of finance or either of them shall be determined by the Chancellor who shall specify the person or persons entitled to receive them.

6 Reservation of grave space: vaults

Payment of any of the prescribed fees does not confer any right to construct a new vault or an exclusive right to a grave or vault. Where a faculty is granted conferring rights for a period specified in the faculty, the fees payable to the parochial church council and the diocesan board of finance or either of them shall be determined by the Chancellor who shall specify the person or persons entitled to receive them.

7 Searches in Church Registers, etc.

The search fee relates to a ‘particular search’ where the approximate date of the baptism, marriage or burial is known. The fee for a more general search of a church register is negotiable with the parochial church council and the diocesan board of finance.

8 Definitions

In this Schedule—

“burial” includes deposit in a vault or brick grave and the interment or deposit of cremated remains;

“Chancellor” means the judge of the consistory court or commissary court of the bishop or archbishop of the diocese;

“church” means a parish church, a place licensed for public worship by the bishop under section 29(1) or a building designated as a parish centre of worship by the bishop under section 29(2) of the Pastoral Measure 1983 (1983 No. 1) and, in relation to marriage only, a public chapel licensed for the solemnization of marriages under section 20 of the Marriage Act 1949 (12, 13 & 14 Geo. 6 c 76) or an authorised chapel within the meaning of section 78(1)(a) of that Act, provided that the marriage takes place in accordance with the licence or as mentioned in section 78(1)(a), as the case may be, but does not include any church or chapel in or belonging to an extra-parochial place which is licensed by the bishop under section 21 of that Act and “churchyard” shall be construed accordingly;

“cemetery” means a burial ground maintained by a burial authority;

“churchyard” includes the curtilage of a church and a burial ground of a church, whether or not immediately adjoining the church;

“monument” includes a headstone, cross, kerb, border, vase, chain, railing, table plaque, marker, flatstone, tombstone or tomb of any other kind;

“prescribed” means prescribed by a Parochial Fees Order

SCHEDULE 2

Section 4(2)

CONSEQUENTIAL AMENDMENTS

1 The enactments listed in this Schedule shall be amended as follows.

The Marriage Act 1949 (12, 13 & 14 Geo 6 c 76)

2 In section 63(1) of the Marriage Act 1949, after the word “fee” there shall be inserted the words “, payable, in the case of a fee previously payable to an incumbent, to the parochial church council of the parish,”.

The Local Authorities Cemeteries Order 1977 (S.I. 1977/204)

3 The Local Authorities Cemeteries Order 1977 shall be amended as follows—

- (a) in Article 15(2), at the end there shall be added the words “, except that, in the case of fees collected for services rendered by a minister of the Church of England, the fees shall be paid to the diocesan board of finance to which fees are payable under section 1 of the Ecclesiastical Fees Measure 1986”;
- (b) Article 15(4) shall be omitted; and
- (c) in Article 17(1), for the words from “shall be entitled” to the end there shall be substituted the words “section 1 of the Ecclesiastical Fees Measure 1986 (1986 No. 2) shall have effect where any funeral service is conducted by a person mentioned in subsection (1) of that section”.