

**LEGAL OFFICERS (ANNUAL FEES) ORDER 2001
ECCLESIASTICAL JUDGES, LEGAL OFFICERS AND OTHERS
(FEES) ORDER 2001**

Explanatory Memorandum

1. Since the Fees Advisory Commission (“the Commission”) last made recommendations to the General Synod, in 2000, its membership, as laid down by section 4 of the Ecclesiastical Fees Measure 1986, has been amended by section 16 of the Church of England (Miscellaneous Provisions) Measure 2000, and the members of the Commission have been appointed or re-appointed on that basis for the new quinquennium. The Commission now consists of six members:

Appointed by:

The Rt Hon Lord Justice Laws
Geoffrey Tattersall QC*

Mrs Heather Morgan*

Shaun Farrell (Financial Secretary)

Carol Pym (Finance Manager, Bishoprics
and Cathedrals Department)

Timothy Allen*

The Lord Chancellor
The Chairman of the
Bar Council
The President of the
Law Society
The Archbishops’
Council

The Church
Commissioners
The Appointments
Committee

* Members of Synod

2. At its first meeting, the Commission elected Lord Justice Laws as its Chairman for this quinquennium.
3. The Commission is assisted by four consultants, from the Ecclesiastical Judges Association (representing diocesan chancellors), the Ecclesiastical Law Association (representing the diocesan registrars), the provincial registrars and the Research and Statistics Unit of the Archbishops' Council.

(a) *Legal Officers (Annual Fees) Order 2001*

4. The Legal Officers (Annual Fees) Orders made under section 5 of the 1986 Measure fix the annual fee payable to each diocesan registrar for the work specified in Appendix to the Order (much of which they are required by law to carry out). As members of the Synod for 1995-2000 will be aware, the evidence supplied to Commission over a substantial period consistently demonstrated that the amount paid to the registrars by way of annual fees fell some way short of what would be reasonable remuneration for their work. In 1996 the Commission therefore informed the Synod that it proposed:- “that in 1997 and in subsequent years if the information which registrars supply annually....continues to reveal a substantial shortfall, it will ask the Synod to agree to an increase of 2% on top of that which is calculated in accordance with the usual inflationary formula.” (GS 1225X).
5. The “usual inflationary formula” referred to, which had been used since 1990 is calculated as a combination of the increases in RPI (25% weighting) and AEI (75% weighting) for the previous year (both published by the Government).
6. When the Commission presented the 1997, 1998, 1999 and 2000 Annual Fees Orders to the Synod at the respective July Groups of Sessions, the increase to be applied was proposed on that basis and accepted by the Synod. In support of this proposal the Commission set out a sequence of supporting statistics that had been gathered over a period of four years and analysed by the Statistical Unit of the Central Board of Finance (now the Archbishops’ Council).
7. Annexed to this memorandum is the customary statistical analysis of the information supplied by registrars, relating to the value of the work done by them in 2000 and the amount actually paid by way of retainer. This again demonstrates that there is still a significant discrepancy between the amount paid and the value of the work done and that the above-inflation increases in recent years have only slightly improved the situation in real terms. This report concentrates on median values so that the results are not distorted by possible anomalous returns. Of course, it will not be until next year’s statistical analysis takes place that the effect of the payment agreed in 2000 will be seen.

8. In the light of this information, the Commission recognised that a deficit still remains to be addressed, and was informed that this deficit is causing substantial problems for some Registrars in matters of succession and in their relationship with others in their partnerships. *Prima facie* there was therefore an argument to continue with the formula of inflation plus 2% at least for this year. However, the Commission, and the Registrars' consultants to the Commission, were conscious of the need to balance this consideration against the wider financial constraints now facing the Church, notwithstanding the strong case for saying that Registrars were already bearing their share of the burden of these financial difficulties through the continued underpayment for their work, in the way that has been demonstrated over previous years.
9. In all the circumstances, the Commission agreed, with the support of the Registrars' consultants, to recommend that the fees in the Legal Officers (Annual Fees) Order 2001 should be increased from those in the 2000 Order by inflation (calculated as set out below) plus 1%. The level of increase that would ordinarily be paid in respect of inflation based on 2000 figures for the Average Earnings Index and the Retail Prices Index is as follows:

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|------------|---------------------------------|
| AEI | 4.5% (three quarters weighting) |
| RPI | 3.0% (one quarter weighting) |

The weighted sum therefore is **4.125%**. An additional 1% will bring the total to **5.125%** and this is the level of increase used by the Commission in the Order. Once again, this increase is applied to the *total* sum payable which is then divided amongst the dioceses in accordance with a weighted formula which takes account of both the number of parishes in a diocese and the number of clergy of incumbent status and above (excluding cathedral clergy).

- (b) *Ecclesiastical Judges, Legal Officers and Others (Fees) Order 2001*
10. The Ecclesiastical Judges, Legal Officers and Others (Fees) Orders fix fees for faculty proceedings and some other proceedings in ecclesiastical courts, and also provide for the fees of the Provincial Registrars and the Vicars-General and certain fees for Synod elections.

11. The exercise which the Commission for the previous quinquennium had been undertaking into the adequacy of diocesan registrars' remuneration extended only to the fees specified in the Legal Officers (Annual Fees) Order. As in past years, the new Commission has restricted the increase in the 2001 Ecclesiastical Judges, Legal Officers and Others (Fees) Order to one calculated on the basis of the usual formula for inflation, that is 4.125%.

(c) *Review of Commission's work*

12. In making the above recommendations, the Commission wishes to inform the Synod that during the next twelve months it will be undertaking a wide ranging review of the procedure for fixing registrars' fees and other fees under the provisions of the 1986 Measure that relate to the work of the Commission, the terms of the Fees Orders and the way in which the figures they contain are calculated. The Commission hopes that it will be in a position to report the results of this review to the Synod when it presents next year's draft Fees Orders.

5th June 2001