# Ecclesiastical Fees (Amendment) Measure 2011

**2011 No. 2**

A Measure passed by the General Synod of the Church of England 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. [24th May 2011]

## 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, subject to subsection (8), 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.

**Status:** *Point in time view as at 01/09/2018.*
***Changes to legislation:*** *There are currently no known outstanding effects for the Ecclesiastical Fees (Amendment) Measure 2011. (See end of Document for details)*

(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 "parishioner" shall have effect accordingly, 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) Where the relevant parish is a parish of which a cathedral is the parish church any fees which would, apart from this subsection, be payable to the parochial church council or to the diocesan board of finance, shall, instead, be payable to the corporate body of the cathedral.

(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 waive any fee payable to the Diocesan Board of Finance, in a particular case.

(10) 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.

(11) Any fee payable to the corporate body of a cathedral under subsection (8) may be waived on behalf of that body by the Chapter of the cathedral.

(12) 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).

(13) This section shall have effect notwithstanding section 12 of the Cremation Act 1902 (2 Edw. 7 c. 8).

(14) Subsection (1) shall apply in relation to banns of matrimony published by a layman under section 9(2) of the Marriage Act 1949 (12, 13 & 14 Geo. 6 c. 76) as it applies in relation to banns of matrimony published by a clerk in holy orders.

(15) Subsection (1) shall apply in relation to searches allowed to be made in a register book of baptisms or burials and to the giving of certified copies of entries in such a book by a churchwarden under section 20(1) of the Parochial Registers and Records Measure 1978 (1978 No. 2) as it applies in relation to searches allowed and copies of entries given by an incumbent or priest in charge.”.

(2) Schedule A1 to the 1986 Measure is set out in Schedule 1 to this Measure.

**Commencement Information**

**I1** S. 1 in force at 1.7.2011 by 2011 No. 1, **art. 2**

## 2 Amendment of section 2 of the 1986 Measure

In subsections (1), (2), (3) and (4) of section 2 of the 1986 Measure, after the words “Parochial Fees Order” there shall be inserted, in each place, the words “ or Scheduled Matters Amending Order ”.

**Commencement Information**

**I2** S. 2 in force at 1.7.2011 by 2011 No. 1, **art. 2**

## [F1]PART 2

ECCLESIASTICAL JUDGES' AND LEGAL OFFICERS' FEES

**Textual Amendments**

**F1** Pt. 2 repealed (1.9.2018) by Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (No. 3), s. 99(2), **Sch. 5** (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2

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

. . . . . .

## 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) at the beginning of the definitions there shall be inserted the following definitions—

""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 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 any extra-parochial place which is licensed by the bishop under section 21 of that Act and "churchyard" shall be construed accordingly;

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

(ii) the definition of "parish" shall be omitted, and

(iii) 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 the words "provisions concerning the amount, appropriation or apportionment of dues and such other" are repealed.

**Commencement Information**

**I3** S. 4 in force at 1.7.2011 by 2011 No. 1, **art. 2**

## 5 Transitional provisions

[F2](1) . . . . . .

(2) Any incumbent holding office on the coming into force of this section who is entitled to receive a fee relating to any matter under a Parochial Fees Order shall, if he or she—

(a) has not assigned that fee to the diocesan board of finance of the diocese in which the benefice of which he or she is the incumbent is situated or, in the case of an incumbent of a benefice comprising a parish of which a cathedral is the parish church, to the corporate body of the cathedral, and

(b) notifies the bishop of the diocese in writing within the period of six months from the coming into force of this section that he or she wishes to preserve that entitlement,

so long as he or she holds office, be entitled to receive the fee which would, apart from this subsection, be payable to the diocesan board of finance or the corporate body of the cathedral, as the case may be.

(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.

**Textual Amendments**

**F2** S. 5(1) repealed (1.9.2018) by Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (No. 3), s. 99(2), **Sch. 5** (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2

**Commencement Information**

**I4** S. 5(1) in force at 1.10.2011 by 2011 No. 3, **art. 2**

**I5** S. 5(2)(3) in force at 1.7.2011 by 2011 No. 1, **art. 2**

## 6 Citation, commencement and extent

(1) This Measure may be cited as the Ecclesiastical Fees (Amendment) Measure 2011.

(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.

**Commencement Information**

**I6** S. 6 in force at 1.7.2011 by 2011 No. 1, **art. 2**

***Status:*** *Point in time view as at 01/09/2018.*
***Changes to legislation:*** *There are currently no known outstanding effects for the Ecclesiastical Fees (Amendment) Measure 2011. (See end of Document for details)*

# SCHEDULES

## SCHEDULE 1

Section 1(2)

### SCHEDULE INSERTED AS SCHEDULE A1 TO THE 1986 MEASURE

**Commencement Information**

**I7** Sch. 1 in force at 1.7.2011 by 2011 No. 1, **art. 2**

"**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 (9 & 10 Eliz. 2 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 OF PERSONS AGED 16 YEARS OR MORE

Service in church Funeral service in church, whether taking place before or after burial or cremation Burial in churchyard immediately preceding or 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

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

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 baptisms or burials (including provision of one copy of any entry)

(for up to 1 hour)

(for each subsequent hour or part of an hour)

***Status:*** *Point in time view as at 01/09/2018.*
***Changes to legislation:*** *There are currently no known outstanding effects for the Ecclesiastical Fees (Amendment) Measure 2011. (See end of Document for details)*

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 the Tithe Act 1836 (6 & 7 Will. 4 c. 71) Furnishing copies of above (for every 72 words)

## PART 2

EXPLANATORY NOTES ON PART 1

*Burial on a separate occasion*

1 In relation to the fee for a burial in a churchyard, "on 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.

*Burial of infant*

2 No fee is payable in respect of the funeral or burial of a still-born infant, or for the funeral or burial of a child dying before attaining the age of 16 years.

*Burial of cremated remains in churches or closed churchyards*

3 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.

*Monuments in churchyards*

4 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.

*Searches in Church Registers, etc.*

5 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.

*Definitions*

6 In this Schedule—

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

"cemetery" means a burial ground maintained by a burial authority;

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

"monument" includes a headstone, cross, kerb, border, vase, chain, railing, tablet, 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.

**Commencement Information**

**I8** Sch. 2 para. 1 in force at 1.7.2011 by 2011 No. 1, **art. 2**

*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, ".

**Commencement Information**

**I9** Sch. 2 para. 2 in force at 1.7.2011 by 2011 No. 1, **art. 2**

*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 ".

**Commencement Information**

**I10** Sch. 2 para. 3 in force at 1.7.2011 by 2011 No. 1, **art. 2**

*The Parochial Registers and Records Measure 1978 (1978 No. 2)*

4 Section 20 of the Parochial Registers and Records Measure 1978 shall be amended as follows—

(a) in subsection (2)(b), for the word "incumbent" there shall be substituted the words " diocesan board of finance ";

(b) in subsection (3), after the word "incumbent" there shall be inserted the words " and to the parochial church council of the parish "; and

(c) for subsection (5) there shall be substituted the following subsection—

"(5) Nothing in subsections (2) and (3) above shall be taken as affecting the powers of local authorities under section 1 of the Local Government (Records) Act 1962 (power to promote adequate use of records).".

**Commencement Information**

**I11** Sch. 2 para. 4 in force at 1.7.2011 by 2011 No. 1, **art. 2**

**Status:**
Point in time view as at 01/09/2018.

**Changes to legislation:**
There are currently no known outstanding effects for the Ecclesiastical Fees (Amendment) Measure 2011.