



**EXPLANATORY MEMORANDUM TO THE
PAROCHIAL FEES ORDER 2005**

2005 No. 2016

1. This explanatory memorandum has been prepared by the Legal Office of the National Institutions of the Church of England and is laid before Parliament by the Archbishops' Council.

2. Description

2.1 The Parochial Fees Order 2005 ('the 2005 Order') will provide an annual up-rating, effective from 1st January 2006, in most of the fees that the Church of England can charge in respect of marriages, funerals and the issue of certificates and, in general, in the fees charged in connection with burials, monuments in churchyards and searches in church registers and records.

2.2 The wording of the 2005 Order has also been slightly changed from that in the Parochial Fees Order 2004 (SI 2004 No 1890) ('the 2004 Order'), for the purpose of clarification. The change is that in the definition of the word "burial" in paragraph 3, an express reference to deposit in the type of lined grave known as a "brick grave" has been added to the reference to deposit in a vault.

2.3 The 2005 Order, prepared after consultation, provides for a general 5% increase in fees payable from 1st January 2006 and also provides for an increase of 10% in the fee for a marriage service, also from 1st January 2006.

3. Matters of special interest to the Joint Committee on Statutory Instruments

Not applicable: the 2005 Order does not fall within the terms of reference of this Committee. However, the relevant information is as follows:

- (i) **Fees increases:** Please see paragraphs 7.5 and 7.6 below.
- (ii) **21-day rule:** The 2005 Order does not breach this rule.
- (iii) **If the instrument comes into force before it was laid:** It does not.
- (iv) **If the instrument uses novel or especially complex powers:** It does not.

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4. Legislative Background

4.1 **General:** Under the Ecclesiastical Fees Measure 1986 (as amended) the Archbishops' Council has power to prescribe 'parochial fees'. The current practice, followed in the 2005 Order, is for these fees to fall under the following broad headings:

- baptism certificates (no fees are chargeable for performing a baptism);
- banns of marriage and marriage services;
- funeral services, burial and burial certificates;
- monuments in churchyards; and
- searches in church registers and certain other documents and supply of copy entries.

4.2 The 1986 Measure requires the Archbishops' Council to submit a proposed order in draft to the General Synod for approval before making it. The General Synod has power to amend the order, although in that event the Archbishops' Council may withdraw it for further consideration instead of making it in the amended form approved by the Synod.

4.3 Since the 1986 Measure, the practice has been to make a fresh order each year, revoking the previous order, in order to provide annual up-rating for fees and to make any other amendments to the terms of the order which have been found necessary. The 2005 Order is the latest in this series of orders and the fees it sets are in substitution for those in the 2004 Order.

4.4 **EU legislation:** The 2005 Order does not implement EU legislation.

5. Extent

5.1 The 2005 Order applies only to England (apart from a small number of parishes wholly or partly in England which are within the Church in Wales) and to about twenty parishes wholly or partly in Wales which are within the Church of England.

6. European Convention on Human Rights

6.1 Not applicable, as the 2005 Order is to be taken on the negative resolution procedure and does not amend primary legislation. However, the Legal Office is of the view that the 2005 Order is fully compatible with Convention rights.

7. Policy background:

7.1 The policy objective of Part I of the Ecclesiastical Fees Measure 1986 is the proper and adequate setting of ecclesiastical fees.

7.2 The clergy of the Church of England have duties in respect of parishioners in any parish in England, whether or not they are members of the Church. With a few exceptions, parishioners have the legal right to be married in their parish church and (if space is available) to be buried in its churchyard of the parish church. The general public also have certain legal rights to make searches in church registers. The broad general purpose of Part I of the 1986 Measure is to provide for the laying down of

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fees for such matters and some other ministrations and services provided by the Church.

7.3 The fees payable under the Orders made under Part I of the 1986 Measure make an important contribution to:

- the cost of stipends for the clergy. In 2003 parochial fees contributed more than £15m towards these costs, which represented over 8% of the Church's total stipends bill; and
- the funds of the parochial church council of the parish concerned, which is responsible for the maintenance of the church and churchyard and for costs incurred in, for example, any necessary heating, lightning of the church and other similar matters. Taken together with payments for 'extras' such as flowers and the services of third parties such as organists and bell ringers, the fees payable to parochial church councils in 2003 produced around £39m.

7.4 In accordance with normal practice, consultation took place with bodies representing those with an interest in the 2005 Order before it was made. Those consulted include professional associations of funeral directors, burial and cremation authorities, the National Society of Memorial Masons, the Ecclesiastical Law Association (representing diocesan registers), the Council for the Care of Churches, the General Register Office, the Association of Family History Societies, and also members of the Family Life And Marriage Education Network (FLAME).

7.5 The general up-rating of fees by 5% to which the 2005 Order gives effect compares with a forecast increase in average earnings of 4.2% and an increase of just over 5% to the National Stipend Benchmark for incumbents (rectors and vicars) and clergy of similar status laid down by the Archbishops' Council from 1st April 2006. The increase in the National Stipend Benchmark is particularly relevant for the purposes of the 2005 Order because of the contribution made by the fees to the cost of clergy stipends (as to which, see paragraph 7.3 above). The Archbishops' Council also decided that a higher increase in the fees for marriage services was justified in all the circumstances, including the financial pressures facing the Church, and (as in the 2004 Order) provided for a 10% increase in those fees. However, the Archbishops' Council saw it as important not to raise the fees for marriages to such an extent as to undermine the efforts being made to encourage people to marry in church.

7.6 Under the 2005 Order, the fee for the marriage service is set at £218, a little more than half of which is to go to the parochial church council. (The corresponding fee under the 2004 Order was £198.) The total fees for a marriage in the Church of England after banns, including two sets of banns, the banns certificate and also the marriage certificate (the current fee for which is set by the Registration of Births, Deaths and Marriages (Fees) Order 2002), but not including 'extras' - see paragraph 7.3 above - amount to almost £270. This compares with the fees charged by registrars for marriages at approved premises, which are fixed by the local authority and vary somewhat, but are likely to be in the region of £250. Thus the total fees for a civil marriage at approved premises, including the notice of the marriage in two districts and the marriage certificate, are generally around £350, which does not include the cost of hiring the venue. Fees for a basic civil register office wedding,

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again including fees for notice of marriage in two districts and the certificate, amount to £97.50.

7.7 The draft of the 2005 Order as prepared by the Archbishops' Council was approved by the General Synod on 8th July 2005.

7.8 The proposed increases in fees to be made by the 2005 Order did not attract any media interest. However there was a limited amount of media interest in a general debate at the July 2005 group of sessions on the principles that underlie the fixing of the fees under these Orders.

8. Impact

8.1 The impact of the 2005 Order on the Church's finances is explained in paragraph 7.3 above.

8.2 For businesses, charities and other voluntary bodies with an interest in the 2005 Order, please see the information about prior consultation in paragraph 7.4 above.

9. Contact

Mr Robert Wellen at the Legal Office, tel: 020 7898 1371 or e-mail: robert.wellen@c-of-e.org.uk can answer any queries regarding this instrument.