THE CHURCH OF ENGLAND

ARCHBISHOPS' COUNCIL

This explanatory memorandum is laid before Parliament by the Archbishops' Council

1. (i) Title of the Instrument:

PAROCHIAL FEES ORDER 2004 (2004 No. 1890) ('the 2004 Order')

(ii) Laying Authority and Purpose:

The Archbishops' Council

(a) To provide annual up-rating, effective from 1st January 2005, 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 in cemeteries and services in crematoria, monuments in churchyards and searches in church registers; and

(b) To make minor drafting amendments, for the purpose of clarification, in the wording of the Parochial Fees Order 2003 (SI 2003 No 1932) ('the 2003 Order'), which the 2004 Order is intended to replace.

(iii) Department responsible:

The Archbishops' Council.

2. Description:

The 2004 Order, prepared after consultation, provides for a general 5% increase in fees payable from 1st January 2005 and also provides for an increase of 10% in the fee for a marriage service, also from 1st January 2005.

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

Not applicable - the 2004 Order does not fall within the terms of reference of these Committees. However, the relevant information is as follows:

(i) Fees increases: Please see paragraphs 7(e) and (f) below.

(ii) 21-day rule: The 2004 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.

4. Legislative Background:

(i) General:

(a) Under the Ecclesiastical Fees Measure 1986 (as amended) the Archbishops' Council has power to prescribe 'parochial fees'. The current practice, followed in the 2004 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 a supply of copy entries.

(b) 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.

(c) 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 2004 Order is the latest in this series of orders and the fees it sets are in substitution for those in the 2003 Order.

(ii) EU legislation: The 2004 Order does not implement EU legislation.

5. Extent:

The 2004 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 20 parishes wholly or partly in Wales which are within the Church of England.

6. European Convention on Human Rights:

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

7. Policy background:

(a) The policy objective of Part I of the Ecclesiastical Fees Measure 1986 is the

proper and adequate setting of ecclesiastical fees.

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

(c) 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 2002 parochial fees contributed nearly £15 m 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 2002 produced around £37m.

Thus in 2002 parochial fees contributed an amount approaching nearly 5% of the Church's total income.

(d) In accordance with normal practice, consultation took place with bodies representing those with an interest in the 2004 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 Churches Main Committee (representing a large number of Churches), 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).

(e) The general up-rating of fees by 5% to which the 2004 Order gives effect compares with a forecast increase in average earnings of 4% and a 5% increase to the National Stipends Benchmark for incumbents (rectors and vicars) and clergy of similar status laid down by the Archbishops' Council from 1st April 2005. The increase in the National Stipends Benchmark is particularly relevant for the purposes of the 2004 Order because of the contribution made by the fees to the cost of clergy stipends (as to which, see paragraph 7(c) 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 2003 Order) provided for a 10% increase in those fees. However, the Archbishops' Council was mindful that the number of Church of England marriages has been continuing to fall and that it was important not to undermine the efforts being made to encourage

people to marry in church.

(f) Under the 2004 Order, the fee for the marriage service is set at £198, a little more than half of which is to go to the parochial church council. (The corresponding fee under the 2003 Order was £180.) The total fees for a marriage, including two sets of banns, the banns certificate and the marriage certificate, but not including 'extras' - see paragraph 7(c) above – amounts to £246. 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 £235. Thus the total fees, including the notice of the marriage in two districts and the marriage certificate, are generally around £300, which does not include the cost of hiring the venue. Fees for a basic register office wedding, again including fees for notice of marriage in two districts and the certificate, amount to £97.50.

(g) The draft of the 2004 Order as prepared by the Archbishops' Council was debated by the General Synod on 10th July. An amendment to limit the up-rating in fees for marriage services to 5%, in line with the other fees under the 2004 Order, was moved but fell, because under the Synod's procedures 40 members were required to support it for full debate and for a vote to be taken on it, and fewer than 40 members did so. The draft 2004 Order was then approved as it stood.

(h) The proposed increases in fees to be made by the 2004 Order attracted a limited amount of media interest.

8. Impact:

The impact of the 2004 Order on the Church's finances is explained in paragraph 7(c) above. For businesses, charities and other voluntary bodies with an interest in the 2004 Order, please see the information about prior consultation in paragraph 7(d) above.

9. Contact:

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