



Church of England (Pensions) Measure 1988 (No. 4)

1988 No. 4

1 Pensions

- (1) For section 1 of the 1961 Measure (entitlement of clergy to pensions) there shall be substituted the following section—

“1 Entitlement to pensions of clerks in Holy Orders, deaconesses and licensed lay workers

- (1) Subject to the provisions of this Measure, any clerk in Holy Orders, deaconess or licensed lay worker (hereafter in this Measure referred to as a “scheme member”) who retires on or after the date on which section 1 of the Church of England (Pensions) Measure 1988 comes into force after performing a qualifying period of pensionable service shall be entitled to receive from the Commissioners for the remainder of his life—
- (a) if he retires on or after the retiring age, a pension at the rate applicable to him under Part I of Schedule 1 to this Measure;
 - (b) if he retires before attaining the retiring age on the ground that he has become incapable through infirmity of performing the duties of his office or if, having ceased to perform pensionable service before attaining that age and not being in receipt of a pension in respect of that service, he subsequently before attaining that age satisfies the Board that he has become incapable through infirmity of performing pensionable service, a pension at the rate applicable to him under Part II of that Schedule;
 - (c) if he retires (otherwise than by reason of infirmity) before attaining the retiring age but not more than five years before he would have attained that age, after having given not less than three months' notice in writing of his intention to do so to the Board, a pension at the rate applicable to him under Part III of that Schedule.
- (2) Subject to the provisions of this section, for the purposes of this Measure—

Status: This is the original version (as it was originally enacted).

- (a) “pensionable service” means—
 - (i) stipendiary ecclesiastical service within the area to which this Measure applies in connection with a diocese, cathedral or parish, or in connection with the collegiate churches of Westminster or Windsor, except service in respect of which a clerk, deaconess or licensed lay worker is a member of any pensions scheme other than an approved scheme; or
 - (ii) service which is treated as pensionable service by virtue of an agreement under subsection (3) or (4) below or is treated as having been performed by virtue of subsection (5) below;
 - (b) “a qualifying period of pensionable service” means—
 - (i) a period of pensionable service of not less than two years or a succession of periods of such service (whether with or without intervals) amounting in the aggregate to not less than two years, or
 - (ii) if in exceptional circumstances the Board with the concurrence of the Commissioners determine that in the case of an individual scheme member pensionable service for a period shorter than two years, or for a succession of periods amounting in the aggregate to a period shorter than two years, should be treated as a qualifying period, pensionable service for that shorter period; and
 - (c) ecclesiastical service is stipendiary if the scheme member receives in respect of that service—
 - (i) a payment from the Commissioners' general fund, including any payment out of that fund by way of a guaranteed annuity under section 1 of the Endowments and Glebe Measure 1976 or an annual personal grant under section 2 of that Measure;
 - (ii) a payment from any diocesan fund; or
 - (iii) a payment from money raised in the parish and given for or allocated to the maintenance of that scheme member, except that ecclesiastical service is not stipendiary if the only payment received by the scheme member is made to him by way of reimbursement of or contribution to expenses incurred by the scheme member, including the cost of maintaining, heating, lighting and cleaning the property in which he lives or is entitled to live.
- (3) The Board may enter into an agreement with any clerk, deaconess or licensed lay worker or with the employer of any clerk, deaconess or licensed lay worker under which service performed by the clerk, deaconess or lay worker which is service to which this subsection applies but is not pensionable service under subsection 2(a)(i) above is treated as pensionable service for the purposes of this Measure, and any such agreement may if the Board thinks fit require the clerk, deaconess or lay worker concerned or, as the case may be, the employer to pay to the Commissioners such sum or sums of money as the Board may determine having regard to the nature of the service performed and to the cost of treating that service as pensionable service.

The service to which this subsection applies is—

- (a) service as a clerk, deaconess or licensed lay worker, or

- (b) service otherwise in furtherance of the spiritual or administrative work of the Church of England,
whether performed within or outside the area to which this Measure applies, except service in respect of which the clerk, deaconess or licensed lay worker concerned is a member of any pensions scheme other than an approved scheme.
- (4) Where a clerk, deaconess or licensed lay worker ceases to be a member of a pensions scheme, other than an approved scheme, without becoming entitled to any retirement benefit under it, the Board may enter into an agreement with the clerk, deaconess or lay worker under which the service in respect of which he was a member of that scheme is treated as pensionable service for the purposes of this Measure, and any such agreement may, if the Board thinks fit, require the clerk, deaconess or lay worker concerned to pay to the Commissioners such sum or sums of money as the Board may determine.
- (5) Where there is an interval not exceeding three months or such longer interval as the Board may in exceptional circumstances allow between two periods of pensionable service performed by any scheme member, then for the purpose of determining whether that scheme member has performed a qualifying period of pensionable service or of determining the length of the qualifying period of pensionable service performed, he shall be treated as having performed pensionable service during that interval; and if the pensionable service on one or both sides of the interval is part-time service, he shall be treated as having performed during that interval service either of the nature performed by him before the interval or of that performed by him afterwards, whichever is of greater benefit to the scheme member.
- (6) Where the pensionable service performed by a scheme member is being performed under the direction of a diocesan bishop, the notice required to be given under subsection (1)(c) above shall be given to that bishop as well as to the Board.
- (7) In this section “approved scheme” means a pensions scheme approved by the Board and the Church Commissioners for the purposes of this section.
- (8) For the purposes of subsection (1) above a scheme member who ceases to perform pensionable service before attaining the retiring age and subsequently satisfies the Board that he has become incapable through infirmity of performing such service shall be deemed to have retired on the date on which the Board determines that they are so satisfied.”
- (2) For Schedule 1 to the 1961 Measure there shall be substituted Schedule 1 to this Measure.

2 Suspension or reduction of pension in case of service after retirement

In section 4 of the 1961 Measure (suspension or reduction of pension in case of service after retirement)—

- (a) for subsections (1) and (2) there shall be substituted the following subsection—

“(1) If a scheme member who—

- (a) is in receipt of a pension under this Measure, and

- (b) has not attained, in the case of a woman, the age of 65 years or, in the case of a man, the age of 70 years, performs after retirement service which is pensionable service, the Board shall have power to suspend or reduce that pension as they think fit.”;
- (b) in subsections (3) and (4) for the word “clerk” there shall be substituted the words “scheme member”.

3 Pensions for widows and widowers

For section 10 of the 1961 Measure (pensions for widows) there shall be substituted the following section—

“10 Pensions for widows and widowers

- (1) Subject to the provisions of this section, where a scheme member who has performed a qualifying period of pensionable service dies on or after 1st April 1988 leaving a widow or widower, the widow or widower shall be entitled to receive from the Board for the remainder of her or his life a pension equal to two-thirds of the deceased scheme member’s pension.
- (2) Where the deceased scheme member’s marriage took place after his or her retirement from pensionable service and within six months of his or her death, the widow or widower shall not be entitled to a pension under this section, but the Board may if they think fit grant a pension to the widow or widower.
- (3) The Board may if they think fit in exceptional circumstances grant a pension to the widow or widower notwithstanding that the deceased spouse had performed less than two years’ pensionable service.
- (4) The Board may if they think fit discontinue the payment of a pension to a widow or widower who re-marries and may if they think fit resume the payment of a pension terminated on remarriage.”

4 Pensions for children

Section 10A of the 1961 Measure (pensions for children) shall have effect subject to the following amendments—

- (a) for subsection (1) there shall be substituted the following subsection—
- “(1) Subject to the provisions of this section, where a scheme member who has performed a qualifying period of pensionable service dies on or after 1st April 1988 leaving a child who has not attained the age of eighteen, the child shall be entitled to receive from the Board a pension of the following amount, that is to say—
- (a) if the scheme member dies leaving a widow or widower, a pension equal to one sixth of the deceased scheme member’s pension; or
- (b) if the scheme member did not leave a widow or widower or if the widow or widower is dead, a pension equal to one third of the deceased scheme member’s pension.”;

- (b) in subsection (2) for the word “clerk” in both places where it occurs there shall be substituted the words “scheme member”, for the words “clerk’s pension” there shall be substituted the words “scheme member’s pension” and after the word “widow” there shall be inserted the words “or widower”;
- (c) in subsection (4) for the word “clerk” there shall be substituted the words “scheme member” and for the words “clerk’s death” there shall be substituted the words “scheme member’s death”;
- (d) in subsection (7) for the word “clerk” there shall be substituted the words “scheme member” and for the word “five” there shall be substituted the word “two”;
- (e) in subsection (8) for the words “clerk if the widow of that clerk” there shall be substituted the words “scheme member if the widow or widower of that member.”

5 Extension of powers to make lump sum payments

In section 3 of the Clergy Pensions (Amendment) Measure 1967 (power to make lump sum payments to clerks entitled to pensions under Part I of the 1961 Measure)—

- (a) in subsection (1) for the word “clerks” there shall be substituted the words “scheme members”;
- (b) after subsection (1) there shall be inserted the following subsection—

“(1A) As from such date as may be specified in rules made under this section, the Commissioners may, subject to and in accordance with such rules, authorise the Board to make lump sum payments on the death of scheme members”.

6 Restrictions on payments to personal representatives of deceased clerk under s. 7 of 1961 Measure

No payment shall be made by virtue of subsections (1) and (7) of section 7 of the 1961 Measure to the personal representatives of a deceased clerk in respect of—

- (a) any sum paid by the clerk on or after the date on which this section comes into force under an agreement made by him under section 1(3) or (4) of the 1961 Measure, or
- (b) any sum received on or after that date under reciprocal arrangements made in respect of that clerk under section 41 or 42 of the 1961 Measure.

7 Termination of contributory pension scheme for widows and children under s. 11 of 1961 Measure

- (1) Sections 11, 12 and 13 of the 1961 Measure (which provide for the payment of contributions towards pensions for widows and children of clergy ordained after 1947 and before 22nd March 1967) shall cease to have effect and no further contribution or other sum of money shall be paid by any clerk under the said section 11 or 13.
- (2) Where the liability of any clerk to make any payment ceases by virtue of subsection (1) above, the benefits to which his widow and children (if any) would have been entitled on his death, if the liability had not ceased, shall be paid at such reduced rate as an actuary may certify to be proper.

- (3) Section 1 of the Clergy Pensions (Amendment) Measure 1967 (which limits the application of section 11 of the 1961 Measure and makes provision for the cessation of payment of contributions under that section) shall cease to have effect.

8 Termination of payment of contributions begun under Part II of Clergy Pensions Measure 1948

- (1) Section 14 of the 1961 Measure (contributions for pensions for widows and dependants paid under Part II of the Clergy Pensions Measure 1948) shall cease to have effect and no further contribution shall be paid by any clerk under that section.
- (2) Where a clerk has ceased to pay contributions under the said section 14 by virtue of subsection (1) above, the benefits to which his widow, nominated dependant or personal representatives would have been entitled on his death if the contributions had continued to be paid until the clerk's attainment of the age of seventy years, his entering upon the receipt of a pension by reason of infirmity or his death, whichever first occurs, shall be paid at such reduced rate as an actuary may certify to be proper.

9 Termination of liability for contributions under agreements made under s. 15 of 1961 Measure

- (1) The liability of any clerk to pay contributions under any agreement made by him with the Board under section 15 of the 1961 Measure for the payment of a pension to his widow or dependants shall cease and no further contributions shall be paid by him.
- (2) Where the liability of a clerk to pay contributions under any such agreement ceases by virtue of subsection (1) above, the benefits to which his widow or any other beneficiary specified in the agreement would have been entitled on his death, if the liability had not ceased, shall be paid at such reduced rate as an actuary may certify to be proper.

10 Provisions supplementary to ss. 7 to 9

- (1) An actuary in certifying the proper rate of benefits to be paid under section 7, 8, or 9 of this Measure may take into account any arrears of contributions which have not been paid, and section 35(4) of the 1961 Measure shall not apply to any such arrears.
- (2) A contribution paid under section 11 or 14 of the 1961 Measure shall in no circumstances be repaid to the clerk by whom it was paid.
- (3) Nothing in this Measure shall affect the benefits payable on death in respect of contributions or any other sum paid under section 11, 13 or 14 of the 1961 Measure by a clerk who is alive on the date on which the relevant section ceases to have effect but has before that date ceased to pay those contributions, for whatever reason.

11 Payments out of Commissioners' general fund

In section 17 of the 1961 Measure (payments out of Commissioners' general fund)—

- (a) in subsection (1) after the word "Measure" there shall be inserted the words "or under section 3(1) of the Clergy Pensions (Amendment) Measure 1967";
- (b) in subsection (2) for the words "section 10 of this Measure" there shall be substituted the words "sections 10, 10A and 10B of this Measure or under section 3(1A) of the Clergy Pensions (Amendment) Measure 1967";

- (c) in subsection (3) for the words “retired clerks or to the widows and dependants of deceased clerks” there shall be substituted the words “retired scheme members or to the widows, widowers and dependants of deceased scheme members”.

12 Extension of powers of Board relating to residences

- (1) In section 26(1) of the 1961 Measure (provision of residences)—
 - (a) for paragraphs (a) and (b) there shall be substituted the following paragraphs—
 - “(a) to provide, maintain and manage homes for the residence of retired clerks, deaconesses and licensed lay workers and the spouses of retired clerks, deaconesses and licensed lay workers;
 - (b) to provide, maintain and manage homes for the residence of the widows, widowers and dependants of deceased clerks, deaconesses and licensed lay workers”;
 - (b) paragraph (e) shall be omitted.
 - (2) In section 26(3A) of the 1961 Measure (loans for residences)—
 - (a) for the words from the beginning of the subsection to the words “in any earlier resolution” there shall be substituted—
 - “(3A) The Board shall have power to make a loan, on such terms as the Board think fit—
 - (a) to a clerk, deaconess or licensed lay worker who has retired or has attained the requisite age; or
 - (b) to the widow or widower of a deceased clerk, deaconess or licensed lay worker;

to assist him or her to purchase, build, rebuild or improve a dwelling-house (including a flat) in which he or she resides or is to reside, being a loan made on the security of the dwelling-house and in respect of a freehold interest or a leasehold interest the unexpired term of which is not less than sixty years; and any loan which the Board has power to make under this subsection to a person mentioned in paragraph (a) above may instead be made to the spouse of that person.

In this subsection “the requisite age” means three years below retiring age or such other age below retiring age as the General Synod may by resolution from time to time determine in relation to the retiring age for men or in relation to the retiring age for women.”
 - (b) for the words “(3) A resolution under this subsection ” there shall be substituted the words “(3B) A resolution under subsection (3A) above”.
- (3) In section 26(4) of the 1961 Measure for the words from the beginning of the subsection to the words “deceased church workers” there shall be substituted the words “The Board may defray any expenditure incurred by them in the exercise, for the benefit of retired clerks and their spouses or for the benefit of the widows, widowers or dependants of deceased clerks, of the powers conferred by the foregoing provisions of this section” and in paragraph (a) after the word “widows” there shall be inserted the word “widowers”.

13 Membership of pensions schemes for church workers

In section 27 of the 1961 Measure (power of Board to administer pensions schemes for church workers) at the beginning there shall be inserted “(1)”, after the word “widows” there shall be inserted the word “widowers” and for the words from “A person who is a member of a scheme” to the end of the section there shall be substituted the following subsections—

- “(2) A deaconess or licensed lay worker who is performing, or has performed, service which is, or is treated as, pensionable service for the purposes of this Measure shall not be eligible to join a scheme established or administered under this section, unless the Board at their discretion grant the deaconess or lay worker permission to do so.
- (3) The Board may at their discretion grant a clerk permission to join a scheme established or administered under this section.
- (4) A person who is a member of a scheme established or administered under this section shall be disqualified from continued membership thereof if the service performed by that person becomes service which is, or is treated as, pensionable service for the purposes of this Measure.”

14 Investment powers of Board

In section 32 of the 1961 Measure (investment powers of Board)—

- (a) for subsections (1) and (2) there shall be substituted the following subsections—
 - “(1) Without prejudice to section 32A of this Measure, the Board may invest any moneys in their hands and available for investment—
 - (a) in any investment falling within Schedule 1 of the Trustee Investments Act 1961;
 - (b) in the acquisition of freehold land in England and Wales or of leasehold land in England and Wales of which the unexpired term at the time of acquisition is not less than sixty years, and
 - (c) in any investment fund or deposit fund constituted under the Church Funds Investment Measure 1958.
 - (2) The Board may retain any investment given to them by way of legacy or otherwise notwithstanding that it is not an investment which the Board would have power to acquire under subsection (1) above.”;
- (b) in subsection (3) for the words “any of the securities mentioned in paragraphs (r), (s) or (t) of subsection (1) of this section” there shall be substituted the words “any investment falling within Part III of Schedule 1 to the Trustee Investments Act 1961”;
- (c) subsections (4) to (7), (9) and (10) shall be omitted and in subsection (8) all the definitions except the definition of “property” shall be omitted.

15 Provisions as to accrued rights

After section 42 of the 1961 Measure there shall be inserted the following sections—

“42A Payments by Board in respect of accrued rights of former scheme members

- (1) Where a scheme member has ceased to perform pensionable service (whether before or after the coming into force of this section) in circumstances such that he has acquired a right to a cash equivalent under Part II of Schedule 1A to the Social Security Pensions Act 1975, the Board shall have power to use that cash equivalent in whichever of the ways the scheme member chooses to exercise the option conferred on him by paragraph 13 of that Schedule.
- (2) Where a scheme member has ceased to perform pensionable service (whether before or after the coming into force of this section) in circumstances such that a transfer premium in respect of the scheme member may be paid to the Secretary of State under regulations made under section 44A of the Social Security Pensions Act 1975, the Board shall have power to pay that transfer premium in accordance with the provisions of those regulations.
- (3) Where a scheme member has ceased to perform pensionable service or has died (whether in either case before or after the coming into force of this section) in circumstances such that a contributions equivalent premium may be paid to the Secretary of State under section 42(2) or (3) of the Social Security Pensions Act 1975, the Board shall have power to pay that premium in accordance with the provisions of that Act.
- (4) The Commissioners shall pay to the Board out of their general fund such sums as are required by the Board for payments made by them under this section.

42B Revaluation of accrued rights

- (1) Where a scheme member who has acquired rights under this Measure has ceased to perform pensionable service (whether before or after the coming into force of this section) before attaining the retiring age, then if the revaluation condition is satisfied—
 - (a) any pension or other retirement benefit payable under this Measure to that member, as calculated at the date on which the member ceased to perform pensionable service, and
 - (b) any pension or other benefit payable under it to any other person in respect of that member, as so calculated,shall be revalued in accordance with the provisions of paragraphs 2 and 6 of Schedule 1A to the Social Security Pensions Act 1975 or in accordance with such other method of revaluation, not being less favourable to the person to whom the benefit concerned is payable, as the Board may determine.
- (2) In this section “the revaluation condition” has the same meaning as in Part I of Schedule 1A to that Act.

42C Provisions as to rights accrued under other schemes

Where any scheme member has acquired rights under a pensions scheme other than the scheme established by this Measure, the Board shall have power to accept any transfer payment made in respect of those rights and to use that

payment for the acquisition for that scheme member of such rights under this Measure as an actuary may certify to be proper.”

16 Extension of powers of General Synod to make further provision by regulations for clergy pensions

In section 6 of the Clergy Pensions (Amendment) Measure 1972 (powers of General Synod to make further provision by regulations with respect to pensions for clergy and their widows and dependants)—

- (a) for subsection (1) there shall be substituted the following subsection—
 - “(1) The General Synod may, by regulations approved by the Synod under this section, make further provision with respect to—
 - (a) pensions and lump sum payments for or in respect of clergy and church workers;
 - (b) pensions for the widows, widowers and dependants of clergy and church workers;
 - (c) residences for retired clergy and church workers and for the spouses of retired clergy and church workers;
 - (d) residences for the widows, widowers and dependants of deceased clergy and church workers;
 - (e) any matter incidental or supplementary to the matters mentioned in paragraphs (a) to (d) above.”;
- (b) in subsection (2) for the words “Clergy Pensions Measures 1961 to 1969 and this Measure” there shall be substituted the words “Church of England (Pensions) Measures 1961 to 1988” and for the words “for the clergy and their widows” there shall be substituted the words “and lump sum payments for or in respect of the clergy and church workers and to pensions for their widows, widowers”;
- (c) for subsection (3) there shall be substituted the following subsection—
 - “(3) The provisions excepted from the last preceding subsection are Part III (excluding sections 26(1) to (3A), 27 and 32A) and section 38 of the principal Measure, section 4 of the Clergy Pensions (Amendment) Measure 1967 and this section (“the excepted provisions”), together with interpretation provisions of the principal Measure so far as they relate to the excepted provisions; and any reference in the excepted provisions to any provision of the principal Measure which is amended or replaced by regulations approved under this section shall be construed as a reference to, or as including a reference to, that provision as amended or replaced by those regulations.”;
- (d) for subsection (4) there shall be substituted the following subsections—
 - “(4) Any regulations under this section shall be prepared by the Board and, with the concurrence of the Commissioners, shall be laid before the General Synod and shall not come into force until they have been approved by the General Synod, whether with or without amendment.
 - (4A) Where the Standing Committee of the General Synod determines that regulations laid before the General Synod under this section do not need to be debated by the Synod then, unless—

- (a) notice is given by a member of the General Synod in accordance with its Standing Orders that he wishes the regulations to be debated, or
- (b) notice is so given by any such member that he wishes to move an amendment to the regulations and at least twenty-five other members of the Synod indicate when the amendment is called that they wish the amendment to be moved,

the regulations shall for the purposes of this section be deemed to have been approved by the General Synod without amendment.”

17 Transfer of part of assets of Church Workers Pension Fund to Commissioners

A valuation shall be made by an actuary of the value on the date on which this section comes into force of—

- (a) the assets of the fund established by the Board under section 27 of the 1961 Measure and known as the Church Workers Pension Fund, and
- (b) the liabilities of that fund, and
- (c) the liabilities of that fund in respect of deaconesses and licensed lay workers who—
 - (i) on that date are performing pensionable service, or
 - (ii) have before that date performed pensionable service, and are not on that date in receipt of a pension payable out of that fund,

after deducting from those liabilities any liabilities imposed on that fund in respect of voluntary contributions made by those members or in respect of assets transferred to the fund under pensions schemes related to the previous employment of those members,

and such proportion of the assets of the Church Workers Pension Fund as the value of the liabilities mentioned in paragraph (c) above bears to the value of the liabilities mentioned in paragraph (b) above shall be transferred to the Commissioners to be held by them as part of their corporate property.

18 Amendments and repeals

- (1) The enactments specified in Schedule 2 to this Measure shall have effect subject to the amendments specified in that Schedule, being minor amendments or amendments consequential on the preceding provisions of this Measure.
- (2) The enactments specified in Schedule 3 to this Measure are hereby repealed to the extent specified in the third column of that Schedule.

19 Citation, commencement and interpretation

- (1) This Measure may be cited as the Church of England (Pensions) Measure 1988, and this Measure may be cited with the Clergy Pensions Measures 1961 to 1982 and the Deaconesses and Lay Workers (Pensions) Measure 1980 as the Church of England (Pensions) Measures 1961 to 1988.
- (2) This Measure shall come into force on such date as the Archbishops of Canterbury and York may jointly appoint, and different dates may be appointed for different provisions.

Status: This is the original version (as it was originally enacted).

- (3) In this Measure “the 1961 Measure” means the Clergy Pensions Measure 1961.
- (4) This Measure shall be construed as one with the 1961 Measure.