



Church of England Pensions Measure 2018

2018 No. 9

PART 4

GENERAL FINANCIAL PROVISIONS

Powers of the Board

41 Provision of residences

- (1) The Board may provide, maintain and manage homes of residence—
 - (a) for retired clerks, deaconesses and licensed lay workers and for their current or former spouses or civil partners;
 - (b) for surviving former spouses or civil partners and for children and dependants of deceased clerks, deaconesses and licensed lay workers.
- (2) The powers under subsection (1) include—
 - (a) a power to assist others in providing, maintaining and managing homes of residence for persons of the description given there,
 - (b) a power to assist others in maintaining persons resident in such homes of residence, and
 - (c) a power to provide nursing care for persons resident in such homes of residence.
- (3) The things which the Board may do for the purposes of, or in connection with, exercising a power under subsection (1) include—
 - (a) converting buildings or other land,
 - (b) constructing or improving buildings, and
 - (c) assisting others to do something mentioned in paragraph (a) or (b).
- (4) The Board may act alone or jointly with others when exercising, or acting for the purposes of or in connection with, a power under this section.

Status: This is the original version (as it was originally enacted).

- (5) The Church Commissioners may make to the Board grants out of their general fund or loans for any purpose connected with the Board’s functions under this section; and it is up to the Commissioners to decide the amount of a grant or loan under this subsection and the terms on which a loan under this subsection is made.
- (6) A reference to a home of residence for a person includes a reference to a separate dwelling for that person.
- (7) Nothing in this section authorises the Board to acquire, hold or apply any property (whether real or personal) for purposes other than charitable purposes.
- (8) The Board is to be regarded as having always had the power under subsection (2)(c).

42 Transfer of homes of residence to General Purposes Fund

- (1) Where it appears to the Board that buildings or other land used as or for the purposes of, or held with, a home of residence maintained from the General Purposes Fund should cease to be so used or held, it may transfer the buildings or other land to the Fund.
- (2) The buildings or other land, or the proceeds of sale, are to be treated as capital of the General Purposes Fund; but that capital may be applied only for the acquisition of buildings or other land for use as or for the purposes of a home of residence.
- (3) The Board may not transfer property under this section which is or includes a gift to be used specifically as or for the purposes of a home of residence without the authorisation of an order of the Charity Commission.
- (4) An order under subsection (3) may vary the trusts in question so as to allow the transfer without special directions as to the application of the property or its proceeds or may give directions to that effect.
- (5) An order under subsection (3) may be varied or revoked by a subsequent order of the Charity Commission.
- (6) A reference to a home maintained from the General Purposes Fund is a reference to a home vested in the Board and certified on its behalf to be maintained to a material extent out of that Fund.
- (7) The power of the Board under this section is subject to any expressed directions of the testator or donor as to the manner in which the assets concerned are to be applied (subject to the effect of an order under subsection (3)).

43 Loans for residences

- (1) The Board may, on whatever terms it thinks fit, make a loan to a qualifying person to enable him or her to buy, build, rebuild or improve a dwelling in which he or she resides or is to reside.
- (2) Each of the following is a “qualifying person”—
 - (a) a clerk, deaconess or licensed lay worker who has retired or reached the qualifying age, or
 - (b) the surviving or former spouse or civil partner of a deceased clerk, deaconess or licensed lay worker.
- (3) The “qualifying age” is—

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- (a) three years below the retiring age, or
 - (b) such other age below the retiring age as the General Synod may by resolution determine.
- (4) A loan under this section may be made only—
- (a) on the security of the dwelling in question, and
 - (b) in respect either of a freehold interest or of a leasehold interest the unexpired term of which is at least 60 years.
- (5) A loan under this section may, instead of or in addition to being made to the clerk, deaconess or licensed lay worker concerned, be made to his or her current or former spouse or civil partner.
- (6) A resolution under subsection (3)(b) may be made only on a recommendation of the Board which has itself been made with the agreement of the Church Commissioners; and the resolution may accord with, or may differ from, the recommendation.
- (7) A resolution under subsection (3)(b) does not affect a loan made by the Board before the resolution takes effect.

44 Status as housing association

The Board is to continue to be regarded as a housing association within the meaning of section 1(1) of the Housing Associations Act 1985.

45 Status as trustee

- (1) The Board may accept a transfer of real or personal property subject to existing charitable trusts for the benefit of qualifying persons and may administer the property as trustee.
- (2) The Board may act as custodian trustee, or otherwise as trustee for limited purposes only, of real or personal property subject to charitable trusts for the benefit of qualifying persons; and section 4(1) and (2) of the Public Trustee Act 1906 (which makes provision as to custodian trustees) applies to the Board as it applies to the Public Trustee.
- (3) Each of the following is a “qualifying person”—
- (a) a retired clerk or church worker,
 - (b) the surviving spouse or civil partner or a child or dependant of a deceased clerk or church worker.
- (4) The Board is to continue to be a trust corporation for the purposes of—
- (a) the Law of Property Act 1925;
 - (b) the Settled Land Act 1925;
 - (c) the Trustee Act 1925;
 - (d) the Administration of Estates Act 1925;
 - (e) the Senior Courts Act 1981.

46 Investment of money held in pension funds

- (1) The Board may invest money which is in a relevant fund and available for investment—

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- (a) in the purchase of investments or property, whether or not of a kind authorised by the general law for the investment of trust funds;
 - (b) on loan, whether or not on the security of property.
- (2) If there is money in a relevant fund which the Board does not think appropriate for immediate investment, it may deposit the money at a bank.
- (3) “Relevant fund” means a fund which the Board administers or of which it is trustee.
- (4) In relation to land (whether freehold or leasehold), the Board may exercise any power of management or improvement which an absolute owner holding the land beneficially would be entitled to exercise.

47 Investment powers

- (1) The Board may invest any money which is in its hands and available for investment—
- (a) in an investment which a trustee would be entitled to make in exercise of the general power of investment under the Trustee Act 2000;
 - (b) in the acquisition of land in England or Wales which is either freehold or leasehold with an unexpired term at the time of acquisition of at least 60 years;
 - (c) in an Investment Fund or Deposit Fund within the meaning of the Church Investment Measure 1958.
- (2) The Board may retain an investment given to it by testamentary or other gift, even if it is not one which the Board would be entitled to make under subsection (1).
- (3) The Board may not exercise the power under subsection (1) by investing in the acquisition of land used as a home of residence under section 41.
- (4) The power under subsection (1)(a) includes power to enter into an option, future, contract for difference, derivative financial instrument or equity instrument (each of which has the same meaning as in Part 7 of the Corporation Tax Act 2009).
- (5) This section is without prejudice to section 46.

48 Section 47: other financial instruments

- (1) The Board may by regulations amend section 47(4) so as to add other financial instruments to those for the time being mentioned there.
- (2) But regulations under this section may not be made unless a draft of the instrument containing the regulations has been laid before the General Synod and approved by it with or without amendment.
- (3) A draft approved under subsection (2) must be referred to the Board; and on the referral of a draft, the Board must—
- (a) if the draft was approved without amendment, make the regulations by applying its seal;
 - (b) if the draft was approved with amendment, either make the regulations by applying its seal or withdraw the draft for further consideration.
- (4) Regulations under this section may not come into force before they have been sealed by the Board.

- (5) If the Business Committee of the Synod decides that a draft of regulations under this section does not need to be debated by the Synod, the draft is to be treated as approved by the Synod without amendment unless a member of the Synod gives notice in accordance with its Standing Orders that the member—
 - (a) wishes the draft regulations to be debated, or
 - (b) wishes to move an amendment to them.
- (6) The power to make regulations under this section is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies—
 - (a) as if the regulations had been made by a Minister of the Crown, and
 - (b) as if this Measure were an Act of Parliament providing for the instrument containing the regulations to be subject to annulment in pursuance of a resolution of either House of Parliament.

49 Interest rate

- (1) The Board may alter a rate of interest which is for the time being specified in a provision made by or under this Measure.
- (2) The power to make an alteration under subsection (1) includes power to decide the date on which the alteration takes effect; and that date may be before the date of the decision.
- (3) The Board may not make an alteration under subsection (1) unless—
 - (a) it has obtained the advice of an actuary, and
 - (b) the General Synod has by resolution approved the alteration.