

1985 No. 2081

ECCLESIASTICAL LAW, ENGLAND

The Clergy Pensions (Amendment) Regulations 1985

Made (passed by the General Synod)

20th November 1985

Laid before Parliament

13th January 1986

Coming into Operation

1st April 1986

In exercise of the powers conferred by section 6(1) of the Clergy Pensions (Amendment) Measure 1972(a) the General Synod hereby approve the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Clergy Pensions (Amendment) Regulations 1985 and shall come into force on 1st April 1986.

(2) In these regulations “the 1961 Measure” means the Clergy Pensions Measure 1961(b).

Pensions for clerks retiring by reason of infirmity

2.—(1) In Part II of Schedule 1 to the 1961 Measure (rate of pension for clerks who retire under the retiring age by reason of infirmity) paragraph (b) shall cease to have effect.

(2) Paragraph (1) above shall not apply in relation to any clerk who retired before the commencement of these regulations.

Pensions for widows and children

3.—(1) In Part II of the 1961 Measure for the heading “Pensions for Widows” and section 10 there shall be substituted the following heading and sections—

“Non-contributory pensions for widows and children

Pensions for
Widows.

10.—(1) Subject to the provisions of this section, where a clerk who has performed a qualifying period of pensionable service dies on or after the first day of April 1986 leaving a widow, his widow shall be entitled to receive from the Board for the remainder of her life a pension equal to 55% of the deceased clerk’s pension.

(2) Where a clerk’s marriage took place after his retirement from pensionable service and within six months of

his death, his widow shall not be entitled to a pension under this section, but the Board may if they think fit grant a pension to her.

(3) The Board may if they think fit in exceptional circumstances grant a pension to a widow notwithstanding that her husband had performed less than five years' pensionable service.

(4) The Board may if they think fit discontinue the payment of a pension to a widow if she re-marries and may if they think fit resume the payment to a widow of a pension terminated on her re-marriage.

Pensions for
Children.

10A.—(1) Subject to the provisions of this section, where a clerk who has performed a qualifying period of pensionable service dies on or after 1st April 1986 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 clerk dies leaving a widow, a pension equal to one sixth of the deceased clerk's pension,
- (b) if the clerk did not leave a widow or if the widow is dead, a pension equal to one third of the deceased clerk's pension.

(2) The aggregate of the pension that may be granted to the children of a clerk under this section shall not exceed the deceased clerk's pension after deducting therefrom any pension payable to his widow under section 10 of this Measure, and where by virtue of the preceding provision of this subsection the amount available for pensions for the children of a clerk is less than the aggregate of the pensions which, but for that provision, would be payable to the children, then the amount of the pension to which each child is entitled shall be determined by dividing the available amount between the children equally.

(3) Any pension under this section shall cease to be payable on the date on which the child attains the age of eighteen except that if after that date the child is receiving full-time instruction at an educational establishment or is undergoing full-time training for a trade, profession or vocation, the child shall, subject to subsections (5) and (6) below, be entitled to receive that pension while receiving that instruction or undergoing that training.

(4) Where a clerk dies leaving a child who has attained the age of eighteen and is receiving full-time instruction at an educational establishment or undergoing full-time training for a trade, profession or vocation, the child shall,

subject to subsections (5) and (6) below, be entitled to receive any pension to which he would have been entitled if he had not attained the age of eighteen at the date of the clerk's death.

(5) No pension shall be paid to any child by virtue of subsection (3) or (4) above unless the instruction or training concerned has been approved by the Board.

(6) No pension shall be paid to a child in respect of any period after the 30th June next following the attainment by the child of the age of twenty-three.

(7) The Board may if they think fit in exceptional circumstances grant a pension to a child notwithstanding that the deceased clerk had performed less than five years' pensionable service.

(8) The Board may if they think fit discontinue the payment of a pension to a child of a deceased clerk if the widow of that clerk re-marries and may if they think fit resume the payment of that pension.

(9) The Commissioners may, at the request of the Board, authorise the Board to grant a pension to a child of a clerk who died before 1st April 1986, being a child who would have been entitled to a pension under this section if the clerk had died after that date.

Supplementary provisions as to pensions for widows and children.

10B.—(1) The Commissioners shall have the power to give the Board, either on one occasion or on successive occasions, directions for increasing the rate of pension payable to a widow or a child under the preceding provisions of this Part of this Measure.

(2) The powers of the Commissioners to give directions under sub-section (1) above shall include power—

(a) to give directions in respect of a class or description of widows or children, and in particular in respect of widows or children described by reference to the time of the deceased clerk's retirement or death; and

(b) to give directions for increasing the pension payable to a widow or child to an amount based on what the deceased clerk's pension or entitlement to pension would have been if his period of pensionable service had included such additional number of years as may be specified in the directions or determined thereunder.

(3) The Commissioners may, at the request of the Board, authorise the Board to augment, by such sum as may be specified in the authorisation and during such period as may

be so specified, the pension payable under the preceding provisions of this Part of this Measure to any individual widow or child.

(4) Where a clerk has received a payment under subsection (2) of section 7 of this Measure or under that subsection as applied by section 8 of this Measure, and the amount paid to him has not been repaid under the proviso to subsection (4) of the said section 7, or under that proviso as so applied, then, in determining for the purposes of sections 10 and 10A of this Measure whether the clerk has performed a qualifying period of pensionable service, no account shall be taken of any period of service performed by him before the payment.

Meaning in ss.10 and 10A of "deceased clerk's pension".

10C.—(1) Subject to the provisions of this section, in sections 10 and 10A of this Measure the expression "deceased clerk's pension" means—

- (a) if at the date of his death the clerk was in receipt of a pension under this Measure, the pension received by the clerk;
- (b) if at the date of his death the clerk had attained the retiring age but was not in receipt of a pension, the pension to which he would have been entitled if he had retired on the date of his death;
- (c) if at the date of his death the clerk had not attained the retiring age, the pension to which the clerk would have been entitled if on that date he had retired on the ground that he had become incapable through infirmity of performing the duties of his office.

(2) Where the pension of a clerk has been suspended under section 4 of this Measure and the clerk dies while the pension is in suspension, then for the purpose of calculating the rate of pension to which a widow or child is entitled under the preceding provisions of this Part of this Measure, any reference in those provisions to the deceased clerk's pension shall be construed as a reference to whichever is the greater of the following pensions, that is to say—

- (a) the pension received by the clerk before the suspension, or
- (b) the pension to which he would have been entitled in respect of the period of pensionable service performed by him if he had retired at the retiring age after having performed the same period of pensionable service.

(3) In determining for the purposes of this section the rate of pension received by a clerk, no account shall

be taken of any augmentation or supplementary pension payable to him under section 2 of this Measure or of any augmentation payable to him under section 8 of the Clergy Pensions Measure 1948(a).

(4) Where a clerk has surrendered to the Board under an agreement made under section 15 of this Measure a part of his right to a pension under this Measure, he shall for the purposes of this section be deemed to have received the pension which he would have received if he had not entered into that agreement."

(2) Paragraph (1) above shall not apply in relation to the widow of a clerk who dies before the commencement of these regulations and the provisions of the 1961 Measure as in force immediately before the commencement of these regulations shall continue to apply in relation to any such widow.

(3) In section 35(3) of the 1961 Measure (manner of payment of pension payable for the benefit of a child) for the words "for the benefit of" there shall be substituted the words "to or for the benefit of".

4. In section 16 of the 1961 Measure (power of Board to commute pension not exceeding £30) for the words "thirty pounds" there shall be substituted the words "one hundred and four pounds".

Revocations

5. Subject to paragraph (2) of Regulation 3 above, the following enactments (being enactments which amended or extended provisions relating to pensions for widows which are replaced by Regulation 3) are hereby revoked—

- (a) section 5 of the Clergy Pensions (Amendment) Measure 1967(b);
- (b) subsections (4) and (5) of section 4 of the Clergy Pensions (Amendment) Measure 1972;
- (c) paragraphs (1), (2), (3) and (4) of Regulation 8 of the Clergy Pensions (Amendment) Regulations 1975(c).

(a) 1948 No. 1.

(b) 1967 No. 1.

(c) S.I. 1975/136.