



# Church of England Pensions Measure 2018

2018 No. 9

## PART 3

### THE PAST SERVICE SCHEME

#### *Pensions for scheme members*

#### **14 Entitlement to pension**

- (1) A member of the past service scheme who was entitled immediately before the commencement of this section to receive a pension under the scheme continues to be entitled to receive a pension under the scheme.
- (2) A member of the past service scheme who has performed a qualifying period of pensionable service to which the scheme applies, but who is not entitled to receive a pension under the scheme immediately before the commencement of this section, becomes entitled to receive a pension under the scheme from the Board in each of the following cases.
  - (3) The first case is where the member retires on or after reaching the retiring age.
  - (4) The second case is where the member retires before reaching the retiring age on grounds of having become incapable through infirmity of performing the duties of his or her office.
  - (5) The third case is where the member—
    - (a) ceases, or has already ceased, to perform pensionable service before reaching the retiring age and without being entitled to receive a pension under the scheme, and
    - (b) after ceasing to perform pensionable service but before reaching the retiring age, satisfies the Board that he or she has become incapable through infirmity of performing pensionable service.

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- (6) The fourth case is where the member retires before reaching the retiring age, otherwise than on grounds of infirmity and no more than 10 years before he or she would have reached the retiring age.
- (7) Entitlement in the second and third cases is subject to section 18 (requirement for medical evidence).
- (8) Entitlement in the fourth case is subject to the member having given the Board at least three months' written notice of the intention to retire.
- (9) Where a member of the past service scheme is deposed from Holy Orders or executes a deed of relinquishment under the Clerical Disabilities Act 1870, he or she nevertheless continues to be a member of the past service scheme in the capacity of clerk (with section 15 also applying accordingly).
- (10) "Retiring age" means—
  - (a) in the case of a man, 65 or such earlier age as the General Synod may by resolution determine;
  - (b) in the case of a woman, 60 or such other age as the General Synod may by resolution determine.

## **15 Entitlement to lump sum**

- (1) A member of the past service scheme who becomes entitled to a pension under the scheme also becomes entitled, subject to subsection (2), to receive a lump sum payment from the Board.
- (2) A member of the past service scheme who is entitled to a pension in the fourth case under section 14(6) is entitled to a lump sum payment only if the member retires no more than 10 years before he or she would have reached the retiring age.
- (3) The Board may, in the case of a particular member of the past service scheme and with the agreement of the Church Commissioners, augment the lump sum payment to which the member is entitled.
- (4) A member of the past service scheme may renounce the whole or part of a lump sum payment to which the member is entitled; and the power to do so is exercisable by an instrument in writing signed by the member and delivered to the Board.
- (5) The entitlement under subsection (2) is to be regarded as having always operated by reference to a period of 10 years.

## **16 Payment of pension and lump sum**

- (1) Where a member of the past service scheme was receiving a pension under the scheme immediately before the commencement of this section, the pension continues to be payable for the rest of the member's life.
- (2) Where a member of the past service scheme becomes entitled after the commencement of this section to receive a pension under the scheme, the pension—
  - (a) becomes payable when the member retires, and
  - (b) continues to be payable for the rest of the member's life.

- (3) Where a member of the past service scheme becomes entitled after the commencement of this section to receive a lump sum payment, it is payable when the member retires.
- (4) The rate of a member's pension under the past service scheme and the amount of the lump sum payment to which a member is entitled are determined in accordance with Schedule 2.
- (5) A member of the past service scheme who—
- (a) ceases, or has already ceased, to perform pensionable service before reaching the retiring age and without receiving a pension under the scheme, and
  - (b) after ceasing to perform pensionable service but before reaching the retiring age, satisfies the Board that he or she has become incapable through infirmity of performing pensionable service,
- is to be treated for the purposes of this Part as retiring on the date on which the Board becomes so satisfied.
- (6) A member of the past service scheme who—
- (a) ceases, or has already ceased, to perform pensionable service before reaching the retiring age, and
  - (b) on the date of reaching the retiring age, is neither performing pensionable service nor receiving a pension under the scheme,
- is to be treated for the purposes of this Part as retiring on the date on which he or she reaches the retiring age.
- (7) A member of the past service scheme who has been deposed from Holy Orders or who has executed a deed of relinquishment under the Clerical Disabilities Act 1870 is to be treated for the purposes of this Part as retiring—
- (a) if he or she had reached the retiring age by the date of the deposition or on which the deed was recorded in the diocesan registry under section 4 or 5 of that Act, on that date;
  - (b) if he or she had not reached the retiring age by that date, on the date when he or she does reach the retiring age.
- (8) Accordingly, in the case of a member of the past service scheme who comes within subsection (5), (6) or (7), a reference in this Part to the member's retirement is to be interpreted in accordance with that subsection.

## **17 Increase in rate of pension**

- (1) The rate of a member's pension under the past service scheme increases each year by the lower of—
- (a) the percentage figure which appears to the Board to be the percentage increase in the general level of prices in Great Britain during whatever reference period the Board decides to use, and
  - (b) 5%.
- (2) If it appears to the Board that there has not been an increase in the general level of prices in Great Britain during the reference period concerned, the percentage figure for the purposes of subsection (1)(a) is 0%.
- (3) An increase in the rate of pension takes effect on whatever date the Board determines; but—

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- (a) the interval between increases must not exceed 12 months, and
  - (b) if the interval is less than 12 months, the increase must not exceed the percentage which bears the same proportion to 5% as the reference period used under subsection (1)(a) bears to 12 months.
- (4) The Church Commissioners may give the Board directions for making increases in the rate of pension payable under the past service scheme to members of the scheme, in addition to any increase under subsection (1).
- (5) A direction under subsection (4) may relate generally to all members of the scheme or only to members of a specified description; and a description of members may, in particular, be by reference to when the entitlement to receive a pension under the scheme begins or began.
- (6) The Board may, in the case of a particular member of the past service scheme, augment that member's pension under the scheme by such amount and for such period as it agrees with the Church Commissioners.
- (7) If the Board considers, in the case of a particular member of the past service scheme, that its estimate of that member's total income for a particular year is, or is likely to be, less than the amount which the Board has determined for that year with the agreement of the Church Commissioners, it may pay the member a supplementary pension.
- (8) The determination of the amount of a supplementary pension must be made in accordance with the general directions of the Church Commissioners; but the amount must not exceed whatever is required to bring the member's total income for the year in question up to the amount determined for that year under subsection (7).
- (9) In the case of a member who is living with his or her spouse or civil partner, the references in subsections (7) and (8) to the member's total income are references to the aggregate of the member's total income and the spouse's or civil partner's total income.
- (10) "Total income" means income from all sources; but in estimating a person's total income, the Board may disregard such part of that person's income as it thinks fit in the special circumstances of the case.

## **18 Requirement for medical evidence etc. in case of infirmity**

- (1) A member of the past service scheme does not become entitled to a pension under the scheme in the second or third case under section 14(4) or (5) (incapability through infirmity) unless the Board is satisfied, after considering medical evidence and such other evidence as in its opinion is necessary—
- (a) that the member is incapable through infirmity of working as described in the provision concerned, and
  - (b) that the infirmity is likely to be permanent.
- (2) Where the Board decides that it is satisfied as mentioned in subsection (1), its decision is nonetheless subject to the condition that it may require further medical or other evidence.
- (3) Where the Board decides that it is not satisfied as mentioned in subsection (1), the member in question may appeal against the decision.

- (4) An appeal under subsection (3) is to be made to a panel of two or more referees appointed by the Board as suitable persons to consider the appeal; and the decision of the panel is final.

## **19 Suspension or reduction of pension in light of medical evidence etc.**

- (1) This section applies if a member of the past service scheme fails to comply—
- (a) with a requirement imposed by virtue of section 18(2), or
  - (b) in the case of a decision of the Board made before the commencement of this section under regulation 7(1) of the Church of England Pensions Regulations 1988, with a requirement imposed by virtue of regulation 7(2) of those Regulations.
- (2) This section also applies if the Board is satisfied, after considering further medical evidence, that a member of the past service scheme—
- (a) has become capable of performing pensionable service, or
  - (b) is engaged, or is capable of being engaged, in other remunerated work.
- (3) The Board may suspend or reduce the member's pension under the scheme.
- (4) Where the Board decides to suspend or reduce a member's pension under this section, the member may appeal against the decision.
- (5) An appeal under subsection (4) is to be made to a panel of two or more referees appointed by the Board as suitable persons to consider the appeal; and the decision of the panel is final.
- (6) Where a member's pension is suspended or reduced in a case within subsection (2)(a) and the member subsequently retires, payment of the pension resumes—
- (a) on the date of the subsequent retirement, and
  - (b) at the rate the Board determines, having regard to any additional period of pensionable service performed.
- (7) Where a member's pension is suspended or reduced in a case within subsection (2)(b) and the member ceases to be engaged in remunerated work, payment of the pension resumes—
- (a) on the date on which the member ceases to be so engaged, and
  - (b) at the rate the Board determines.
- (8) Where a member's pension is suspended or reduced in a case within subsection (2)(b) and the Board is satisfied on further medical evidence that the member is incapable of being engaged in remunerated work, payment of the pension resumes—
- (a) on the date on which the Board becomes satisfied of that, and
  - (b) at the rate the Board determines.
- (9) The rate determined under subsections (6) to (8) must be at least the rate at which the pension was being paid before the suspension or reduction.
- (10) The power to suspend or reduce a pension in a case within subsection (2) does not apply to a pension to which a member became entitled before 1 October 1992.

**20 Death within one year of retirement**

- (1) This section applies where a member of the past service scheme who is entitled to receive a pension under the scheme dies within one year of the date on which he or she retired.
- (2) The Board must pay to the member's legal representatives the pension that would have been payable to the member under the scheme for that year less any instalment of the pension already paid to the member.
- (3) In calculating the pension that would have been payable to the member, the Board may not take into account an augmentation or supplementary pension under section 17.

**21 Service after retirement: effect on pension and lump sum payment**

- (1) This section applies where a member of the past service scheme—
  - (a) has retired and is receiving a pension under the scheme, but
  - (b) has not reached the age which is five years above whatever the retiring age for the time being is, and
  - (c) performs pensionable service after retirement.
- (2) The Board may suspend or reduce the member's pension under the scheme.
- (3) Where the pension of a member who retired after performing pensionable service to which the scheme applies for less than 37 years is suspended or reduced under subsection (2), the member is, on his or her subsequent retirement, to be paid—
  - (a) a pension at the rate that the Board determines, and
  - (b) if the rate so determined is greater than that at which the pension was being paid before the suspension or reduction, an additional lump sum payment of the amount provided for in subsection (5).
- (4) The rate determined by the Board under subsection (3) must be at least the rate at which the pension was being paid before the suspension or reduction; and the Board must, in determining the rate, have regard to the period of pensionable service performed after retirement.
- (5) The amount of the additional lump sum payment under subsection (3) is the amount which bears the same proportion to three times the full basic pension (within the meaning of Schedule 2) as the length of the period of pensionable service performed after retirement bears to 37 years of whole-time service.
- (6) The rate of a member's pension under the past service scheme is not to be increased as a result of the member's performance of pensionable service after retirement unless the pension has been suspended or reduced under this section.