



# Clergy Pensions Measure 1961

1961 No. 39 and 10 Eliz 2

## PART III

### FINANCE AND ADMINISTRATION

#### *Powers of the Board*

#### **24 General functions of the Board in relation to pensions.**

The Board shall control and administer the system of pensions established by this Measure and for that purpose shall have power:—

- (a) to enter into agreements for the receipt and payment of actuarial equivalents of any contributions or pensions under this Measure; and
- (b) to borrow money for the purposes of [<sup>F1</sup>pensions or lump sum payments in respect of deceased clerks] and to secure the money upon the Clergy (Widows and Dependants) Pensions Fund or any of its assets.

#### **Textual Amendments**

- F1** Words substituted by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), ss. 10(3), 18(1), [Sch. 2 para. 10](#)

#### **25 Power of Commissioners to give directions as to exercise of functions of Board.**

The Commissioners may, after consultation with the Board, give to the Board directions of a general character as to the exercise and performance by the Board of their functions, being directions which appear to the Commissioners to be requisite or expedient for securing a due balance between the amounts respectively of the liability imposed on their general fund by virtue of subsection (1) and subsection (2) of section seventeen of this Measure on the one hand and the resources of that fund available for meeting the liability on the other hand, and the Board shall give effect to any such directions.

*Status: Point in time view as at 01/08/1993.*

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**26 Powers of Board as to provision of residences.**

(1) The Board shall have power:—

- [<sup>F2</sup>(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]
- (c) to assist others in providing, maintaining or managing any such homes as are mentioned in the two last foregoing paragraphs; and
- (d) to assist others in maintaining any such persons as are mentioned in paragraphs (a) and (b) of this subsection in homes of residence for such persons and other persons.
- (e) ..... <sup>F3</sup>

(2) For the purposes of exercising any of their powers under the last foregoing subsection the Board may:—

- (a) acquire, hold, maintain, convert or repair any land or buildings;
- (b) assist other persons in acquiring, maintaining, converting or repairing any land or buildings;
- (c) construct or improve, or assist other persons in the construction or improvement of, houses or buildings of any kind.

(3) Each of the several acts and things which the Board have power to do by virtue of the foregoing provisions of this section may be done either alone or in conjunction with other persons.

[<sup>F4</sup>[<sup>F5</sup>The Board shall have power to make a loan, on such terms as the Board think fit—

- <sup>F5</sup>(3A)] (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.]

A resolution shall not be made except on a recommendation of the Board made with the concurrence of the Commissioners and a resolution may be in accordance with, or different from, a recommendation.

[ A resolution under subsection (3A) above]shall not affect a loan made by the Board <sup>F6</sup>(3B) before the resolution takes effect.]

(4) [<sup>F7</sup>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

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or dependants of deceased clerks, of the powers conferred by the foregoing provisions of this section], out of the Clergy Pensions Augmentation Fund or the Clergy (Widows and Dependants) Pensions Augmentation Fund, and may also, for the purpose of defraying any such expenditure, borrow money on the security of any assets belonging to either of the said Funds:

Provided that:—

- (a) nothing in this subsection shall authorise the use of assets belonging to the Clergy (Widows and Dependants) Pensions Augmentation Fund, or of moneys borrowed on the security of those assets, for the benefit of persons other than widows [<sup>F8</sup>widowers] and dependants of deceased clerks; and
  - (b) the powers conferred by this subsection shall, in relation to any assets belonging to either of the said Funds, have effect subject to any expressed directions of the testators or other donors relating to the manner in which those assets are to be applied.
- (5) Nothing in this section shall authorise the Board to acquire, hold or apply any property, whether real or personal, for any purposes other than charitable purposes.

#### Textual Amendments

- F2** S. 26(1)(a)(b) substituted by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), **ss. 10(3), 12(1)(a)**
- F3** S. 26(1)(e) repealed by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), **ss. 10(3), 12(1)(b), 18(2), Sch. 3**
- F4** S. 26(3A) inserted by [Clergy Pensions \(Amendment\) Measure 1982 \(No. 2, SIF 21:5\)](#), **s. 2(1)**
- F5** “(3A)” and words following substituted by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), **ss. 10(3), 12(2)(a)**
- F6** Words substituted by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), **ss. 10(3), 12(2)(b)**
- F7** Words substituted by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), **ss. 10(3), 12(3)**
- F8** Word inserted by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), **ss. 10(3), 12(3)**

#### Modifications etc. (not altering text)

- C1** S. 26(4) explained as to assets of the Funds by [Clergy Pensions \(Amendment\) Measure 1967 \(No. 1\)](#), **s. 4(4)**
- C2** S. 26 modified (5.11.1993) by [1993 Measure No. 3](#), **s.2** (with s. 9(2)).

## 27 Power of Board to administer pensions schemes for church workers.

[<sup>F9</sup>(1)] The Board shall have power to establish, administer or participate with others in the administration of pensions schemes for the benefit of church workers or the widows [<sup>F10</sup>widowers] or dependants of such workers and may, in conjunction with the exercise of their said powers, acquire and hold property, whether real or personal, either alone or jointly with others.

[<sup>F11</sup>(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.

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- (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.]

#### Textual Amendments

- F9** “(1)” inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3)**, 13  
**F10** Word inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3)**, 13  
**F11** S. 27(2)–(4) substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3)**, 13 for paragraph inserted by Clergy Pensions (Amendment) Measure 1982 (No. 2, SIF 21:5), **s. 3**

## 28 Power of Board to establish Church Workers Pensions Augmentation Fund.

The Board shall have power to establish a fund to be called “The Church Workers Pensions Augmentation Fund” and shall have power to pay into that fund any testamentary or other gifts made to the Board—

- (a) for the relief of poverty in the case of any retired church worker or the widow [<sup>F12</sup>widower] or dependant of a deceased church worker; or  
 (b) for the provision [<sup>F13</sup>maintenance or management] of homes of residence for retired church workers and their [<sup>F14</sup>spouses] and for the widows [<sup>F15</sup>widowers] and dependants of deceased church workers in accordance with the provisions of section twenty-six of this Measure;

and the Board may at their discretion apply the said Fund or any part thereof for those purposes, and may also borrow money on the security of the assets of the said Fund in order to defray expenditure incurred for the said purposes:

Provided that the powers conferred by this section shall have effect subject to any expressed directions of the testators or other donors relating to the manner in which the assets of the Fund are to be applied.

#### Textual Amendments

- F12** Word inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3)**, 18(1), **Sch. 2 para. 11(a)**  
**F13** Words inserted by Clergy Pensions (Amendment) Measure 1967 (No. 1), **s. 4(3)**  
**F14** Word substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3)**, 18(1), **Sch. 2 para. 11(b)**  
**F15** Word inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3)**, 18(1), **Sch. 2 para. 11(b)**

#### Modifications etc. (not altering text)

- C3** S. 28 amended by Clergy Pensions (Amendment) Measure 1967 (No. 1), **s. 4(2)**; extended by Clergy Pensions (Amendment) Measure 1967 (No. 1), **s. 4(4)**; amended by Clergy Pensions (Amendment) Measure 1982 (No. 2, 21:5), **s. 2(2)**

## 29 Board to be a housing association.

The Board shall be deemed to be a housing association within the meaning of [<sup>F16</sup>section 1(1) of the Housing Associations Act 1985.]

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#### Textual Amendments

- F16** Words substituted by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), ss. 10(3), 18(1), [Sch. 2 para. 12](#)

### 30 Power of Board to act as trustee.

- (1) The Board shall have power to accept a transfer of any property (whether real or personal) subject to existing charitable trusts for the benefit of retired clerks or church workers or the widows [<sup>F17</sup>widowers] or dependants of deceased clerks or church workers and to administer any such property as trustee thereof.
- (2) The Board shall also have power to act as custodian trustee, or otherwise to act as trustee for limited purposes only of any property (whether real or personal) subject to charitable trusts for the benefit of retired clerks or church workers or the widows [<sup>F17</sup>widowers] or dependants of deceased clerks or church workers; and subsections (1) and (2) of section four of the <sup>M1</sup>Public Trustee Act 1906 shall apply to the Board in like manner as they apply to the public trustee.

#### Textual Amendments

- F17** Word inserted by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), ss. 10(3), 18(1), [Sch. 2 para. 13\(a\)](#)

#### Marginal Citations

- M1** 1906 c. 55.

### 31 Board to be a trust corporation.

The Board shall be a trust corporation for the purposes of the <sup>M2</sup>Law of Property Act 1925, the <sup>M3</sup>Settled Land Act 1925, the <sup>M4</sup>Trustee Act 1925, the <sup>M5</sup>Administration of Estates Act 1925 and [<sup>F18</sup>the <sup>M6</sup>Supreme Court Act 1981].

#### Textual Amendments

- F18** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), ss. [17\(2\)\(a\)](#), 22(3)

#### Marginal Citations

- M2** 1925 c. 20.  
**M3** 1925 c. 18.  
**M4** 1925 c. 19.  
**M5** 1925 c. 23.  
**M6** 1981 c. 54(37).

### 32 Investment powers of Board.

- [<sup>F19</sup>(1) Without prejudice to section 32A of this Measure, the Board may invest any moneys in their hands and available for investment—

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- (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.]
- (3) Not more than one-half of the property of any fund administered by the Board, as valued at the date of acquisition thereof, may at any time be invested in [<sup>F20</sup>any investment falling within Part III of Schedule 1 to the Trustee Investments Act 1961]; and for the purposes of this subsection the value of property at the date of the acquisition thereof means:—
- (a) if the property was acquired by purchase, the purchase price thereof;
- (b) if the property was acquired by gift, *inter vivos*, the value of the property as valued by a person who in the opinion of the Board is qualified to value that property; and
- (c) if the property was acquired under a testamentary disposition, the value thereof for probate purposes.
- [<sup>F21</sup>This subsection does not apply to a fund to which section 32A of this Measure applies.]
- (4) ..... <sup>F22</sup>
- (8) In this section, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—
- ..... <sup>F23</sup>
- “property” includes real or personal property of any description, but does not include any land or building used for the purposes of a home of residence under section twenty-six of this Measure;
- ..... <sup>F23</sup>
- (9) ..... <sup>F22</sup>

#### Textual Amendments

- F19** S. 32(1)(2) substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 14(a)
- F20** Words substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 14(b)
- F21** Para. inserted by Clergy Pensions (Amendment) Measure 1982 (No. 2, SIF 21:5), s. 4(2)
- F22** S. 32(4)–(7)(9)(10) repealed by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 14(c), 18(2), Sch. 3
- F23** Definitions repealed by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 14(c)

[<sup>F24</sup>32A Investment of moneys comprised in certain funds.

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- (1) The Board may invest any moneys comprised in a fund to which this section applies and available for investment in the purchase of any investments or property of any sort either real or personal and whether or not being investments or property authorised by the general law for the investment of trust funds, or upon loan upon the security of any property of any description or without security and may also from time to time vary such investments.
- (2) Moneys comprised in a fund to which this section applies which the Board do not think fit immediately to invest may be deposited at any bank.
- (3) In relation to land, whether freehold or leasehold, the Board may exercise all the powers of management of improvement which could be exercised by an absolute owner holding the land beneficially.
- (4) The funds to which this section applies are the Clergy (Widows and Dependants) Pensions Fund established under section 13 of the <sup>M7</sup>Clergy Pensions Measure 1954, the Church Workers Pensions Fund established under section 27 of this Measure and any other pensions fund established under a pensions scheme by the Board after the commencement of the <sup>M8</sup>Clergy Pensions (Amendment) Measure 1982, being a fund which is to be administered by the Board.]

#### Textual Amendments

**F24** S. 32A inserted by [Clergy Pensions \(Amendment\) Measure 1982 \(No. 2, SIF 21:5\)](#), s. 5

#### Marginal Citations

**M7** 1954 No.4.

**M8** 1982 No.2.

### 33 Preservation of restrictions on certain transactions.

The conferment of powers on the Board by this Measure shall not be regarded as giving authority for any transaction to be entered into without the sanction of an Order of the Court or of the Charity Commissioners for England and Wales which would otherwise be required under [<sup>F25</sup>section 36 of the Charities Act 1993].

In this section the expression “the Court” has the same meaning as in the [<sup>F25</sup>that Act].

#### Textual Amendments

**F25** Words in s. 33 substituted (1.8.1993) by [1993 c. 10, ss. 98\(1\), 99\(1\)](#), [Sch. 6 para.4](#).

**Status:**

Point in time view as at 01/08/1993.

**Changes to legislation:**

There are currently no known outstanding effects for the Clergy Pensions Measure 1961, Cross Heading: Powers of the Board.