



Clergy Pensions Measure 1961

1961 No. 39 and 10 Eliz 2

PART IV

MISCELLANEOUS AND GENERAL

Miscellaneous

38 Determination of questions.

- (1) Subject to the provisions of this Measure, if any question arises:—
- (a) whether any clerk [^{F1}deaconess or licensed lay worker] is performing or has performed pensionable service,
 - (b) as to the length of the qualifying period of pensionable service performed by any [^{F2}scheme member] or the date on which the qualifying period terminated,
 - (c) whether a [^{F2}scheme member] satisfies any other conditions laid down for receipt of a pension under Part I of this Measure or the terms and conditions upon which his pension is granted or agreed to be paid,
 - (d) whether a [^{F2}scheme member] has retired or on what date he retired,
 - (e) as to the rate at which a pension is to be paid and whether any deductions are to be made therefrom in respect of arrears of contributions,
 - (f) as to the right of a [^{F2}scheme member] to a repayment of any contributions paid by him, or
 - (g) as to the rights of a widow [^{F3}widower]^{F4}, surviving civil partner,]]], child or dependant of a [^{F2}scheme member], or of the [^{F2}scheme member] himself, under Part II of this Measure (including the question whether any person is a dependant of a [^{F2}scheme member]),
- it shall be decided by the Board at a meeting specially convened for that purpose.
- (2) Before giving a decision under this section the Board shall give the [^{F2}scheme member] or other person concerned, or his agent, an opportunity of being heard.
- (3) Any person aggrieved by a decision of the Board under this section, may, within such limits of time and in such manner as may be laid down by Rules of Court, appeal from

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that decision to the High Court, and the decision of that Court on any such appeal shall be final.

- (4) [^{F5}Part I of the Arbitration Act 1996] shall not apply to any proceedings under this section.

Textual Amendments

- F1** Words inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 16(a)**
- F2** Words substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 16(b)**
- F3** Word inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 16(c)**
- F4** Words in s. 38(1)(g) inserted (5.12.2005) by The Civil Partnership (Judicial Pensions and Church Pensions, etc.) Order 2005 (S.I. 2005/3325), arts. 1(1), **81(5)**
- F5** Words in s. 38(4) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 15** (with s. 81(2)) ; S.I. 1996/3146, **arts. 3, 4** (with **Sch. 2**).

Modifications etc. (not altering text)

- C1** S. 38 amended by Clergy Pensions (Amendment) Measure 1972 (No. 5, SIF 21:5), **s. 6(3)**

[^{F6}38A Power of Board to establish additional pensions scheme for clerks.

- (1) The Board shall have power to establish, administer or participate with others in the administration of a pensions scheme for the benefit of clerks and their widows, widowers[^{F7}, surviving civil partners] and dependants and may, in conjunction with the exercise of those powers, acquire and hold property, whether real or personal, either alone or jointly with others.
- (2) The scheme established under this section shall be supplementary to the [^{F8}the past service scheme and the funded scheme] and nothing in the scheme so established shall be taken as affecting any provisions of the [^{F9}those schemes].
- (3) The Commissioners shall have power to make out of their general fund payments of such amounts as are required by the scheme established under this section to be paid by the employer of a clerk.]

Textual Amendments

- F6** S. 38A inserted by S.I. 1988/2239, **reg. 2**
- F7** Words in s. 38A(1) inserted (5.12.2005) by The Civil Partnership (Judicial Pensions and Church Pensions, etc.) Order 2005 (S.I. 2005/3325), arts. 1(1), **81(6)**
- F8** Words in s. 38A(2) substituted (1.1.1998) by 1997 No. 1, s. 10(1), **Sch. 1 Pt. I para. 11(a)**; Instrument dated 28.11.1997 made by Archbishops of Canterbury and York
- F9** Words in s. 38A(2) substituted (1.1.1998) by 1997 No. 1, s. 10(1), **Sch. 1 Pt. I para. 11(b)**; Instrument dated 28.11.1997 made by Archbishops of Canterbury and York

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Textual Amendments

- F10** S. 39 repealed by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), ss. 10(3), 18(2), **Sch. 3**

40 Diocesan widows and dependants committees.

- (1) In every diocese the diocesan board of finance shall appoint a diocesan widows and dependants committee, which may include representatives of charities of which [^{F11}widows, widowers, surviving civil partners] and dependants of deceased clerks, deaconesses or licensed lay workers of the diocese are beneficiaries.
- (2) A diocesan widows and dependants committee shall watch over the interests of the [^{F11}widows, widowers, surviving civil partners] and dependants of deceased clerks, deaconesses or licensed lay workers of the diocese for which the committee is appointed.
- (3) In every diocese the diocesan board of finance shall appoint an officer or officers whose duty it shall be:—
 - (a) to bring before the diocesan widows and dependants committee information as to the circumstances of [^{F11}widows, widowers, surviving civil partners] and dependants of deceased clerks, deaconesses or licensed lay workers of the diocese and to make any proper representations on their behalf to the committee, and
 - (b) to inform those [^{F11}widows, widowers, surviving civil partners] and dependants of their rights under this Measure and of any action taken or proposed to be taken by the committee on their behalf.

Textual Amendments

- F11** Words in s. 40 substituted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), arts. 1(1), **81(7)**

^{F12}**40A**

Textual Amendments

- F12** S. 40A repealed (1.1.1998) by [1997 No. 1](#), s. 10(2), **Sch. 2 Pt. I**; Instrument dated 28.11.1997 made by [Archbishops of Canterbury and York](#)

41— ^{F13}
43.

Textual Amendments

- F13** Ss. 41–43 repealed by [S.I. 1988/2256](#), reg. 36, **Sch. 2**

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Any rate of interest specified in any provision of this Measure, [^{F14}or of regulations made under section 6 of the Clergy Pensions (Amendment) Measure 1972], may be altered by the [^{F15}Board to such other rate as the Board] with the advice of an actuary and the approval of the Church Assembly given by resolution may from time to time determine.

Textual Amendments**F14** Words substituted by [S.I. 1988/2256, reg. 34\(2\)](#)**F15** Words in [s. 44](#) substituted (1.1.1998) by [1997 No. 1, s. 10\(1\), Sch. 1 Pt. I para. 12](#); Instrument dated 28.11.1997 made by [Archbishops of Canterbury and York](#)**Modifications etc. (not altering text)****C2** S. 44 amended by [Clergy Pensions \(Amendment\) Measure 1972 \(No. 5\), s. 5\(4\)](#)**45 ^{F16}****Textual Amendments****F16** S. 45 repealed by [S.I. 1988/2256, reg. 36, Sch. 2](#)**46 Interpretation.**

- (1) In this Measure, except where the context otherwise requires, the following expressions have the meanings thereby assigned to them respectively, that is to say:—

“actuary” means a Fellow of the Institution of Actuaries or of the Faculty of Actuaries in Scotland [^{F17}, not being a Church Commissioner or a member of the Board or a member of the staff of the Commissioners or the Board, and includes a firm of actuaries];

^{F18}

“the Board” means the Church of England Pensions Board;

“child” includes a step-child and an adopted child;

“church worker” means any person (other than a clerk) who is or has been employed in spiritual or temporal work in connection with the Church of England;

[^{F19}“clerk” means any bishop, priest or deacon of the Church of England;]

“the Commissioners” means the Church Commissioners;

“dependant” shall have such meaning for the purposes of this Measure as the Board may determine for the purposes of each case having regard to all the circumstances;

“diocesan bishop” means the bishop of any diocesan bishopric in England, whether created before or after the passing of this Measure, including the bishopric of Sodor and Man;

“ecclesiastical service” means service rendered under the direction of a diocesan bishop or carried on in furtherance of the spiritual or administrative work of the Church of England and recognised as such by a diocesan bishop;

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[^{F20}“funded scheme” has the meaning assigned to that expression by the Pensions Measure 1997]

F21

[^{F22}“licensed lay worker” means a person who has been admitted by a bishop as a lay worker of the Church of England and who has been authorised by a bishop by licence to serve as such a worker, and includes a person who has been so admitted and has been so authorised otherwise than by licence if on the date on which section 1 of the Church of England (Pensions) Measure 1988 comes into force he was a member of the Church Workers Pension Fund]

[^{F23}“past service scheme” has the meaning assigned to that expression by the Pensions Measure 1997;]

“pensionable service” has the meaning assigned to it by section one of this Measure;

[^{F24F25} . . .]

“qualifying period of pensionable service” has the meaning assigned to it by the said section one;

[^{F26}“retiring age” means in the case of a man the age of 65 years or such earlier age as the General Synod may by resolution from time to time determine and in the case of a woman the age of 60 years or such other age as the General Synod may so determine;]

[^{F27}“scheme member” means a clerk, deaconess or licensed lay worker, 1]

“stipend” includes salary and other emoluments;

F28

- (2) References in this Measure to any Act or Measure shall be construed as references to that Act or Measure as amended by any subsequent Act or Measure.

Textual Amendments

- F17** S. 46(1): Words in definition of “actuary” substituted (1.1.1998) by 1997 No. 1, s. 10(1), **Sch. 1 Pt. I para. 13(a)**; Instrument dated 28.11.1997 made by Archbishops of Canterbury and York
- F18** Definitions repealed by S.I. 1988/2256, reg. 36, **Sch. 2**
- F19** Definition substituted for definitions of “clerk” and “clerk in Holy Orders” by S.I. 1988/2256, reg. **34(3)(a)** (the definition of “clerk” inserted as provided by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 20(a)**)
- F20** S. 46(1): Definition of “funded scheme” inserted (1.1.1998) by 1997 No. 1, s. 10(1), **Sch. 1 Pt. I para. 13(b)**; Instrument dated 28.11.1997 made by Archbishops of Canterbury and York
- F21** Definition repealed by S.I. 1988/2256, reg. 36, **Sch. 2**
- F22** Definition inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 20(b)**
- F23** S. 46(1): Definition of “past service scheme” inserted (1.1.1998) by 1997 No. 1, s. 10(1), **Sch. 1 Pt. I para. 13(c)**; Instrument dated 28.11.1997 made by Archbishops of Canterbury and York
- F24** Definition inserted by S.I. 1988/2239, reg. 3
- F25** S. 46(1): Definition of “principal scheme” repealed (1.1.1998) by 1997 No. 1, s. 10(2), **Sch. 2 Pt. I**; Instrument dated 28.11.1997 made by Archbishops of Canterbury and York
- F26** Definition substituted by Deacons (Ordination of Women) Measure 1986 (No. 4, SIF 21:5), s. 3(3), **Sch. para. 4**
- F27** Definition inserted as provided by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 20(c)** and substituted by S.I. 1988/2256, reg. **34(3)(b)**
- F28** Definition repealed by S.I. 1988/2256, reg. 36, **Sch. 2**

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The Measures specified in the first column of the Second Schedule to this Measure shall have effect subject to the amendments specified in the second column of that Schedule, being amendments required in consequence of the passing of this Measure.

Modifications etc. (not altering text)**C4** The text of s. 47 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.**48 Repeals and consequential savings.**

- (1) ^{F29}
- (2) Any application, claim, payment, agreement, arrangement, determination, order or Rules of Court made, or having effect as if made, direction, decision or notice given, or having effect as if given, or other thing done under any Act or Measure repealed by this Measure shall, if in force immediately before the passing of this Measure, continue in force and be deemed to have been made, given or done under the corresponding provisions of this Measure.
- (3) Where any clerk has before the passing of this Measure performed a period of pensionable service as defined in section twenty-nine of the ^{M1}Clergy Pensions Measure 1948 as amended by section fifteen of the ^{M2}Clergy Pensions Measure 1954 that service shall be deemed to be pensionable service for the purposes of this Measure.
- (4) The repeal of any Act or Measure by this Measure shall not affect any pension which has become payable under that Act or Measure before the passing of this Measure and, subject to the provisions of this Measure, any such pension shall continue to be payable in accordance with the provisions repealed by this Measure for the period for which it would have been payable if this Measure had not been passed.
- (5) Any person who immediately before the passing of this Measure is holding any office by virtue of a Measure repealed by this Measure shall continue to hold his office as if he had been appointed or elected to that office under the corresponding provision of this Measure.
- (6) Where a period of time specified in any Measure repealed by this Measure is current at the passing of this Measure, this Measure shall have effect as if the corresponding provision thereof had been in force when that period began to run.
- (7) Any Act, Measure or document referring to any Act or Measure repealed by this Measure shall be construed as referring to the corresponding provision of this Measure.
- (8) The mention of particular matters in this section shall not be taken as affecting the general application of [^{F30}sections 16(1) and 17(2)(a) of the ^{M3}Interpretation Act 1978]with regard to the effect of repeals.

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Textual Amendments

F29 S. 48(1) repealed by Statute Law (Repeals) Act 1977 (c. 18), Sch. 1 Pt. V

F30 Words substituted by virtue of Interpretation Act 1978 (c. 30, SIF 115:1), ss. 22(3), 25(2)

Marginal Citations

M1 1948 No. 1.

M2 1954 No. 4.

M3 1978 c. 30(115:1).

49 Extent.

This Measure shall extend to:—

- (a) the whole of the Province of Canterbury with the exception of the Channel Islands;
- (b) the whole of the Province of York, including the Isle of Man; and
- (c) the collegiate churches of Westminster and Windsor:

Provided that this Measure may be applied to the Channel Islands as defined in the ^{M4}Channel Islands (Church Legislation) Measures 1931 and ^{M5}1957 or either of them, in accordance with the provisions of those Measures.

Marginal Citations

M4 1931 No. 4.

M5 1957 No. 1.

50 Short title.

This Measure may be cited as the Clergy Pensions Measure 1961.

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