

1975 No. 136

ECCLESIASTICAL LAW

The Clergy Pensions (Amendment) Regulations 1975

<i>Made (approved by the General Synod)</i>	6th February 1975
<i>Laid before Parliament</i>	13th February 1975
<i>Coming into operation</i>	6th April 1975

In exercise of the power 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 1975 and shall come into operation on 6th April 1975.

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

(3) In these regulations any expression to which a meaning is assigned by section 46 of the principal Measure shall have the same meaning as in that Measure.

(4) The Interpretation Measure 1925(c) shall apply for the interpretation of these regulations as it applies for the interpretation of Measures passed by the General Synod.

Reduction of qualifying period

2.—(1) In section 1(2) of the principal Measure, in the definition of the expression “qualifying period of pensionable service”, and in the proviso to that subsection, for the words “ten years”, wherever occurring, there shall be substituted the words “five years”.

(2) This regulation shall not apply in relation to a person who retired or died before the coming into force of these regulations.

Provision with respect to certain clerks who cease to perform pensionable service before attaining retiring age

3. For the removal of doubt it is hereby declared that a clerk who—

(a) before attaining the retiring age ceases to perform pensionable service otherwise than on the ground that he has become incapable of performing the duties of his office, and

(b) is not performing such service on the date on which he attains that age,

is to be deemed for the purposes of the Clergy Pensions Measures 1961 to 1972(d), any rules made thereunder and these regulations to have retired on that date.

(a) 1972 No. 5. (b) 9 & 10 Eliz. 2. No. 3. (c) 15 & 16 Geo. 5. No. 1.
(d) 9 & 10 Eliz. 2. No. 3; 1967 No. 1; 1969 No. 1; 1972 No. 5.

Amendment with respect to pensionable service

4. In section 1(4) of the principal Measure (period of service in respect of which a clerk in Holy Orders is a member of a pension scheme other than that established by the Measure not to be treated as pensionable service for purposes of the Measure), after the word "Measure", where first occurring, there shall be inserted the words "or a scheme approved by the Board and the Commissioners for the purposes of this subsection".

Revocation of provisions for forfeiture of pension

5.—(1) Section 5 of the principal Measure (clerk who becomes incapable under ecclesiastical law or any Act or Measure of holding preferment in the Church of England or a church in communion therewith to forfeit right to a pension under the Measure) and section 10(3) of that Measure (widow of clerk who has forfeited right to a pension not entitled to a pension under the Measure) are hereby revoked.

(2) For the avoidance of doubt it is hereby declared that a clerk who—

(a) is deposed from Holy Orders, or

(b) executes a deed of relinquishment under the Clerical Disabilities Act 1870(a),

is nevertheless still a clerk in Holy Orders for the purposes of the Clergy Pensions Measures 1961 to 1972(b), any rules made thereunder and these regulations.

(3) If at the date on which a clerk is so deposed or on which such a deed which has been executed by him is recorded in the diocesan registry under section 4 or 5 of the said Act of 1870 the clerk has attained the retiring age he shall be deemed to have retired on that date, and if at that date he has not attained the retiring age he shall be deemed to retire on the date on which he attains that age.

Application for pension

6. For section 6 of the principal Measure there shall be substituted the following section:—

"6. An application for the pension to which a clerk is entitled under this Part of this Measure shall be made in such manner as the Board may determine; and where a clerk is incapacitated from making such application himself, the Board may authorise some other person to make the application on his behalf."

Restriction on return of contributions

7. No clerk shall be entitled by virtue of subsections (2) and (5) of section 7 of the principal Measure (return in certain circumstances of contributions paid or deemed to have been paid under Part I of the Clergy Pensions Measure 1948(c)) to be paid any sum by way of the return of any contribution or other sum paid by him under an agreement made under section 1(3) or (4) of the principal Measure in respect of a period of service after 5th April 1975 unless that period is less than five years and he has been or is to be paid a sum by way of the return of a contribution or other sum paid by him under such an agreement in respect of a period of service before 6th April 1975.

Widow's pension

8.—(1) In section 10(1) of the principal Measure, as amended by section 4(1) of the Clergy Pensions (Amendment) Measure 1972(d), the words "to whom he was married for not less than five years and (in the case of a

(a) 33 & 34 Vict. c. 91. (b) 9 & 10 Eliz. 2. No. 3; 1967 No. 1; 1969 No. 1; 1972 No. 5.

(c) 11 & 12 Geo. 6. No. 1.

(d) 1972 No. 5.

retired clerk) to whom he was married before his retirement, and who was being maintained by him at the time of his death”, the words “so long as she remains a widow” and the words from “Provided” to the end shall be omitted.

(2) In subsection (1) of the said section 10, as so amended, there shall be inserted at the beginning the words “Subject to the provisions of this section”, and after the said subsection (1) there shall be inserted the following subsections:—

“(1A) 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.

(1B) 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.

(1C) 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, whether before or after the passing of this Measure.”

(3) Section 10 of the principal Measure, as amended by the preceding provisions of this regulation, shall apply to a widow whose husband died on or after 9th August 1972 (the date of the passing of the Clergy Pensions (Amendment) Measure 1972(a)) subject, in the case of a widow whose husband died before the coming into force of these regulations, to the modification that for the reference in subsection (1B) to five years’ pensionable service there shall be substituted a reference to ten years’ pensionable service.

(4) Paragraph (3) of this regulation shall not be taken as authorising the payment of a pension to any widow in respect of a period before the coming into force of these regulations.

(5) Section 4(1) of the Clergy Pensions (Amendment) Measure 1972(a) is hereby revoked.

Revocation of otiose provisions

9.—(1) The following provisions of the principal Measure, that is to say,—

(a) in section 1(1), paragraph (c) and the word “or” immediately preceding it, and in Schedule 1, Part III (entitlement to, and rate of, pension of a clerk who retires before attaining the retiring age but not before attaining pensionable age within the meaning of the enactments relating to national insurance as for the time in force), and

(b) in section 37, subsections (1), (2) and (3) (power of Board to exclude from the provisions of the Measure a clerk who applies for exclusion on certain grounds),

are hereby revoked.

(2) The Clergy Pensions Measure 1969 (b) (which amended the enactments mentioned in paragraph (1)(a) above) is hereby revoked.

Approved by the General Synod 6th February 1975.

W. D. Pattinson,
Secretary-General

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations make further provision with respect to pensions for the clergy and their widows and amend or revoke certain provisions of the Clergy Pensions Measures 1961 to 1972.

The minimum period of service which a clergyman must perform in order to qualify for a pension under the said Measures is reduced by regulation 2 from ten years to five years.

Regulation 3 clarifies the law governing the entitlement to a pension of a clergyman who retires from pensionable service otherwise than on the ground of ill health before attaining the retiring age.

The amendment of section 1(4) of the Measure of 1961 made by regulation 4 ensures that a period of service in respect of which a clergyman is a member of a pension scheme approved by the Church of England Pensions Board and the Church Commissioners is not prevented from counting as pensionable service for the purposes of the Measure.

The provisions of the Measure of 1961 under which a clergyman who has become incapable of holding preferment in the Church of England or a church in communion with the Church of England and his widow forfeit any right to a pension under the Measure are revoked by regulation 5. That regulation also clarifies the law with respect to the application of the Measures and regulations to a clergyman who is deposed from Holy Orders or relinquishes the rights and privileges of his office in accordance with the Clerical Disabilities Act 1870.

Regulation 6 re-enacts section 6 of the Measure of 1961 and in doing so omits the provision which prevents a pension from beginning to accrue before the date on which an application for it is made.

Regulation 7 sets out the only case in which sums paid by a clergyman under an agreement made with the Church of England Pensions Board in respect of a period of service after 5th April 1975 may be returned to him.

Regulation 8 abolishes certain conditions which have to be satisfied to entitle the widow of a clergyman to a pension and the provision that the pension is payable only so long as she remains a widow. The widow of a clergyman who dies after the coming into force of the regulations and who has performed not less than five years' pensionable service will be entitled to a pension under section 10 of the Measure of 1961, as amended by the regulation, unless the marriage took place after his retirement and within six months of his death, in which case the grant of a pension is at the discretion of the Church of England Pensions Board. That Board is also empowered to grant a pension to a widow notwithstanding that her husband had performed less than five years' pensionable service, but only in exceptional circumstances, to discontinue a widow's pension on her remarriage and to resume payment of a pension terminated on remarriage. A clergyman's widow whose husband died on or after 9th August 1972 and who failed to qualify for a pension because a condition abolished by regulation 8 was not satisfied in her case will become entitled to a pension under section 10 of the 1961 Measure, as amended by regulation 8, but only in respect of a period after the coming into force of the regulations.

Regulation 9 revokes some provisions of the Measures which have ceased to have any practical application.

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