



Church of England Pensions Measure 2018

2018 No. 9

A Measure passed by the General Synod of the Church of England to consolidate with corrections and minor improvements certain enactments relating to Church of England pensions.
[20th December 2018]

VALID FROM 01/03/2019

PART 1

INTRODUCTION

Continuation of existing arrangements

1 The pension schemes

- (1) The following pension schemes continue to have effect—
 - (a) the Church of England Funded Pensions Scheme (“the funded scheme”);
 - (b) the Church of England Pensions Scheme (“the past service scheme”);
 - (c) the Church Workers Pension Fund (“the workers' fund”);
 - (d) the Church Administrators Pension Fund (“the administrators' fund”);
 - (e) the Clergy (Widows and Dependants) Pensions Fund (“the widows and dependants fund”).
- (2) Every person who, immediately before the commencement of this section, was a member of a pension scheme referred to in subsection (1) continues to be a member of that scheme.

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Changes to legislation: There are currently no known outstanding effects for the Church of England Pensions Measure 2018. (See end of Document for details)

2 The Church of England Pensions Board

- (1) There is to continue to be a body corporate known as the Church of England Pensions Board (“the Board”).
- (2) Schedule 1 (which makes further provision about the Board) has effect.

Pensionable service

3 Meaning of “pensionable service”

- (1) This section and sections 4 to 6 apply for the purposes of this Measure.
- (2) “Pensionable service”, in relation either to the past service scheme and a member of it or to an approved scheme and a member of it, means—
 - (a) stipendiary ecclesiastical service within the meaning of section 4,
 - (b) service treated as pensionable service under an agreement made under section 5, or
 - (c) an interval between periods of service which is itself treated as pensionable service by section 6.
- (3) “Pensionable service”, in relation to the funded scheme and a member of it, has the meaning given in the rules for the time being in force under that scheme (see section 8).
- (4) “Approved scheme” means a pension scheme approved by the Board and the Church Commissioners for the purposes of this Measure.
- (5) “Qualifying period of pensionable service” means—
 - (a) a period of pensionable service of at least two years,
 - (b) a succession of periods of pensionable service (whether with or without intervals) totalling at least two years, or
 - (c) where there is a determination under subsection (6), the period or succession of periods to which the determination relates.
- (6) The Board may, in exceptional circumstances and with the agreement of the Church Commissioners, determine in the case of a particular individual—
 - (a) that a period of pensionable service of less than two years should be treated as a qualifying period of pensionable service, or
 - (b) that a succession of periods of pensionable service (whether with or without intervals) totalling less than two years should be treated as a qualifying period of pensionable service.
- (7) Where the qualifying period of pensionable service performed by a clerk, deaconess or licensed lay worker includes a period of service before 1 January 1998 and a period of service after 31 December 1997, the portion attributable to the service in each case is to be calculated without reference to any period of service following the completion of the minimum number of years of service entitling him or her to maximum benefits.
- (8) Subsections (5) and (6) and sections 5 and 6, in so far as they relate to the funded scheme and a member of it, have effect subject to the rules which are for the time being in force under that scheme.

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4 Meaning of “stipendiary ecclesiastical service”

- (1) “Stipendiary ecclesiastical service” means stipendiary ecclesiastical service in connection with—
 - (a) a diocese, cathedral or parish, or
 - (b) the Collegiate Church of St. Peter in Westminster or the Collegiate Church of St. George in Windsor.
- (2) “Ecclesiastical service” means—
 - (a) service rendered under the direction of a diocesan bishop, or
 - (b) service carried on in furtherance of the spiritual or administrative work of the Church of England and recognised as such by a diocesan bishop.
- (3) Ecclesiastical service is “stipendiary” if the person performing it receives in respect of it—
 - (a) a payment from the Church Commissioners' general fund,
 - (b) a payment from a diocesan fund, or
 - (c) a payment from money raised in a parish and given for or allocated to that person's maintenance.
- (4) But ecclesiastical service is not “stipendiary” if the only payment the person receives is by way of reimbursement of or contribution to expenses incurred by him or her, including the cost of maintaining, heating, lighting or cleaning the property in which he or she lives or is entitled to live.
- (5) The reference in subsection (3)(a) to a payment from the Church Commissioners' general fund includes a reference to—
 - (a) a payment from that fund by way of a guaranteed annuity under section 1 of the Endowments and Glebe Measure 1976, or
 - (b) an annual personal grant under section 2 of that Measure.
- (6) In the application of this section to the diocese in Europe, a reference to a parish is to be read as a reference to a chaplaincy.

5 Service to be treated as pensionable service

- (1) The Board may make an agreement with a clerk, deaconess or licensed lay worker, or with the employer of a clerk, deaconess or licensed lay worker, for relevant service to be treated as pensionable service.
- (2) “Relevant service”, in relation to a clerk, deaconess or licensed lay worker, means service—
 - (a) which he or she performs in that capacity or otherwise in furtherance of the spiritual or administrative work of the Church of England, but
 - (b) which is not stipendiary ecclesiastical service, and
 - (c) which is not service in respect of which he or she is a member of a pension scheme other than an approved scheme.
- (3) The reference in subsection (1) to relevant service includes a reference to service outside (as well as service in) the area to which this Measure applies.
- (4) An agreement under subsection (1) may include a requirement for the clerk, deaconess or licensed lay worker, or his or her employer, to pay the Church Commissioners such sums of money as the Board may determine, having regard to—

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- (a) the nature of the service performed, and
- (b) the cost of treating the relevant service concerned as pensionable service.

- (5) Where a clerk, deaconess or licensed lay worker ceases to be a member of a pension scheme other than the past service scheme or an approved scheme without becoming entitled to retirement benefits under it, the Board may make an agreement with him or her for the service in respect of which he or she was a member of the scheme to be treated as pensionable service.
- (6) An agreement under subsection (5) may include a requirement for the clerk, deaconess or licensed lay worker to pay the Church Commissioners such sums of money as the Board may determine.
- (7) An agreement made under regulation 5 of the Church of England Pensions Regulations 1988 and in force immediately before the commencement of this section continues in force and is to be treated as if it had been made under this section.

6 Intervals in periods of pensionable service

- (1) An interval between two periods of pensionable service performed by a clerk, deaconess or licensed lay worker which does not exceed three months, or is of such longer duration as the Board may in exceptional circumstances allow, is itself to be treated as a period of pensionable service performed by him or her.
- (2) If the pensionable service on each or either side of the interval is part-time service, the interval is to be treated as being pensionable service of the nature either of that performed before the interval or of that performed after it, whichever is of greater benefit to the clerk, deaconess or licensed lay worker.
- (3) The reference in subsection (1) to periods of pensionable service before and after an interval does not include a reference to a period of pensionable service which is itself an interval that is being treated as a period of pensionable service by this section.

VALID FROM 01/03/2019

PART 2

THE FUNDED SCHEME

7 The scheme

The funded scheme applies only to pensionable service performed by a clerk, deaconess or licensed lay worker on or after 1 January 1998.

8 Scheme rules

- (1) The funded scheme is to continue to provide—
- (a) for the making of rules as to the nature and amount of the pensions and lump sum payments payable under the scheme, and
 - (b) for the making of amending rules.

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- (2) The rules which are in force under the funded scheme immediately before the commencement of this section are to continue in force.
- (3) Rules made under the funded scheme may not come into force unless they have been laid before and approved by the General Synod.
- (4) If the Business Committee of the Synod decides that rules under the funded scheme do not need to be debated by the Synod, they are to be treated as having been approved by the Synod unless a member of the Synod gives notice under its Standing Orders that the member wishes the rules to be debated.

9 Church of England Pensions Fund

- (1) The fund known as the Church of England Pensions Fund, constituted and maintained under the funded scheme, is to continue to have effect.
- (2) In the case of each member of the funded scheme, the body responsible for that member must make contributions for the purposes of the scheme by paying the Board such sums as the Board determines.
- (3) Before making a determination under subsection (2), the Board must—
 - (a) consult the responsible bodies, and
 - (b) obtain the advice of an actuary.
- (4) A determination by the Board under subsection (2) must be consistent with the advice it obtains under subsection (3)(b).
- (5) The Board must pay into the Church of England Pensions Fund—
 - (a) every contribution it receives under subsection (2), and
 - (b) all other money it receives for the purposes of the funded scheme.
- (6) All payments by the Board in respect of pensions and lump sum payments arising or to be provided under the funded scheme must be made out of the Church of England Pensions Fund.
- (7) A payment required under subsection (2) must be made at the end of each month.
- (8) If the body responsible for a member of the funded scheme does not make a payment required under subsection (2) when it is due, the Board may, in determining the amount of subsequent payments, add interest on the amount of the arrears at such rate as the Board considers appropriate.

10 The responsible body

- (1) The references in section 9 to the body responsible for a member of the funded scheme are to be interpreted in accordance with this section.
- (2) In the case of each of the following, the Church Commissioners are the responsible body—
 - (a) a diocesan bishop or suffragan bishop;
 - (b) a dean or residentiary canon in receipt of a stipend or other emoluments under section 21 of the Cathedrals Measure 1999;

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- (c) a member of the funded scheme who is in receipt of periodical payments under section 1(1)(b) of the Ordination of Women (Financial Provisions) Measure 1993;
 - (d) a clerk employed by the Church Pastoral Aid Society;
 - (e) a clerk employed by any World Mission Agency of the Church of England which was, as at 21 March 1997, an associate or full member of the Partnership for World Mission.
- (3) In the case of a member of the funded scheme who is in receipt of a relevant payment made in respect of an office held in a diocese, the Diocesan Board of Finance is the responsible body; and “relevant payment” means—
- (a) a stipend from the diocesan stipends fund income account,
 - (b) a periodical payment under paragraph 2 of Schedule 2 to the Incumbents (Vacation of Benefices) Measure 1977, or
 - (c) compensation under Schedule 4 to the Mission and Pastoral Measure 2011.
- (4) In the case of a member of the funded scheme who is in receipt of a stipend paid wholly from revenues of a cathedral, the Chapter of the cathedral is the responsible body.
- (5) In the case of a member of the funded scheme who is employed in pensionable service otherwise than as mentioned in subsection (2)(d) or (e), the member's employer is the responsible body.
- (6) In the case of a member of the funded scheme who is in receipt of a stipend paid from a diocesan stipends account kept by the Sodor and Man Diocesan Board of Finance, that Board is the responsible body.
- (7) In the case of any other member of the funded scheme who is performing pensionable service, the body primarily concerned in promoting his or her membership is the responsible body.

11 Liability of Church Commissioners

- (1) The Church Commissioners are not liable to meet—
- (a) the cost of a pension arising from the retirement or death of a clerk, deaconess or licensed lay worker in so far as the pension is attributable to pensionable service on or after 1 January 1998,
 - (b) the cost of a lump sum payment arising from the retirement or death of a clerk, deaconess or licensed lay worker in so far as the payment is attributable to pensionable service on or after that date, or
 - (c) the cost of a lump sum payment arising from the death of a clerk, deaconess or licensed lay worker on or after that date.
- (2) Subject to that, the Church Commissioners may make to the Board grants out of their general fund or loans for any purpose connected with—
- (a) the payment of pensions to retired members of the funded scheme;
 - (b) the payment of pensions to surviving spouses or civil partners and to children and dependants of deceased members of the funded scheme.
- (3) It is up to the Commissioners to decide the amount of a grant or loan under subsection (2) and the terms on which a loan under that subsection is made.

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12 Administration of scheme

- (1) The Board must continue to administer the funded scheme.
- (2) The things which the Board may do for the purpose of exercising that function include—
 - (a) entering into agreements for the receipt and payment of actuarial equivalents of contributions or pensions;
 - (b) borrowing money for the purposes of pensions or lump sum payments in respect of deceased clerks;
 - (c) securing money borrowed under paragraph (b) in whatever manner and on whatever terms and conditions the Board thinks fit.

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PART 3

THE PAST SERVICE SCHEME

Introduction

13 The scheme

- (1) The past service scheme applies only to pensionable service performed by a clerk, deaconess or licensed lay worker before 1 January 1998.
- (2) The past service scheme consists of the provisions set out in this Part.

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—

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- (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.
- (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.

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- (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%.

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- (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—
 - (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.

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- (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.

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- (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.

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Pensions for surviving spouses etc. and children

22 Surviving spouses or civil partners

- (1) Where the surviving spouse or civil partner of a deceased member of the past service scheme was entitled immediately before the commencement of this section to receive a pension under the scheme, he or she continues to be entitled to receive a pension under the scheme from the Board for the remainder of his or her life.
- (2) Where a member of the past service scheme dies after the commencement of this section leaving a surviving spouse or civil partner, he or she becomes entitled to receive a pension under the scheme from the Board for the remainder of his or her life.
- (3) The pension payable under the past service scheme to the surviving spouse or civil partner of a deceased member of the scheme is equal to two-thirds of the deceased member's pension.
- (4) Where a member of the past service scheme got married or entered into a civil partnership after retiring from pensionable service and within the six months before the member's death, the surviving spouse or civil partner is not entitled to receive a pension under the scheme; but the Board may nonetheless decide to grant a pension to him or her.
- (5) The Board may discontinue the payment of a pension under the past service scheme to a member's surviving spouse or civil partner if he or she gets married or enters into a civil partnership; but it may resume the payment of a pension discontinued under this subsection.

23 Children

- (1) Where the child of a deceased member of the past service scheme who has not reached 18 was entitled immediately before the commencement of this section to receive a pension under the scheme, he or she continues to be entitled to receive a pension under the scheme from the Board—
 - (a) until the day on which the child reaches 18, and
 - (b) while in full-time education or training after reaching 18.
- (2) Where the child of a deceased member of the past service scheme who has reached 18 and is in full-time education or training was entitled immediately before the commencement of this section to receive a pension under the scheme, he or she continues to be entitled to receive a pension under the scheme from the Board while in full-time education or training.
- (3) Where a member of the past service scheme dies after the commencement of this section leaving a child who has not reached 18, the child is entitled to receive a pension under the scheme from the Board—
 - (a) until the day on which the child reaches 18, and
 - (b) while in full-time education or training after reaching 18.
- (4) Where a member of the past service scheme dies after the commencement of this section leaving a child who has reached 18 and is in full-time education or training, the child is entitled to receive a pension under the scheme from the Board while in full-time education or training.

Status: Point in time view as at 20/12/2018. This version of this Measure contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Church of England Pensions Measure 2018. (See end of Document for details)

- (5) The pension payable under the past service scheme to a child of a deceased member of the scheme is equal to—
 - (a) if the member left a surviving spouse or civil partner, one-sixth of the deceased member's pension, or
 - (b) if the member did not leave a surviving spouse or civil partner or if the surviving spouse or civil partner is dead, one-third of the deceased member's pension.
- (6) If two or more children of a deceased member of the past service scheme are entitled to a pension under the scheme, the aggregate of the pensions payable to them must not exceed the amount of the deceased member's pension after the deduction of, if the member left a surviving spouse or civil partner, the pension payable to him or her under section 22.
- (7) If, as a result of subsection (6), the amount available for the deceased member's children is less than the aggregate of the pensions which would otherwise be payable to them under the scheme, the amount to which each child is entitled under the scheme is determined by dividing the amount available between the children equally.
- (8) Where a child of a deceased member of the past service scheme is in full-time education or training, a pension under the scheme is payable to the child only if—
 - (a) the Board has approved the education or training, and
 - (b) the child has not reached 23.
- (9) The Board may discontinue the payment of a pension under the past service scheme to a child of a deceased member of the scheme if the member's surviving spouse or civil partner gets married or enters into a civil partnership; but the Board may resume the payment of a pension discontinued under this subsection.
- (10) "Training" means training for a trade, profession or vocation.

24 Sections 22 and 23: supplementary provision

- (1) The rate of pension under the past service scheme that is payable to a surviving spouse or civil partner or a child of a deceased member increases each year as it would if it were a member's pension under the scheme, with section 17(1) and (2) applying accordingly.
- (2) The Church Commissioners may give the Board directions for making additional increases in the rate of the pension payable under the past service scheme to a surviving spouse or civil partner or a child of a deceased member.
- (3) A direction under subsection (2) may relate generally to all surviving spouses and civil partners or to all children or only to those of a specified description; and a description of surviving spouses and civil partners or of children may, in particular, be by reference to when the deceased member died or retired.
- (4) A direction under subsection (2) may direct that the pension payable to a surviving spouse or civil partner or to a child of a deceased member is to increase to an amount based on what the deceased member's pension or entitlement to pension would have been if the period of pensionable service to which the past service scheme applies had included the additional number of years specified in or determined under the direction.

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- (5) The Board may, in the case of a particular surviving spouse, civil partner or child, augment the pension payable under the past service scheme by such amount and for such period as the Board agrees with the Church Commissioners.

25 Meaning of “deceased member’s pension”

- (1) A reference in this Part to a deceased member's pension under the past service scheme is to be interpreted in accordance with this section.
- (2) In the case of a member who, at the date of death, was receiving a pension under the scheme, it is a reference to that pension.
- (3) In the case of a member who, at the date of death, had chosen to give up pension under the scheme for a lump sum under paragraph 9 of Schedule 2, it is a reference to the pension which the member would have been receiving under the scheme if he or she had not chosen to give it up.
- (4) In the case of a member who, at the date of death, had reached the retiring age but was not receiving a pension under the scheme, it is a reference to the pension to which the member would have been entitled under the scheme if he or she—
- (a) had retired on the date of death, and
 - (b) had not given up any pension under the scheme for a lump sum under paragraph 9 of Schedule 2.
- (5) In the case of a member who, at the date of death, was performing pensionable service but had not reached the retiring age, it is a reference to the pension to which the member would have been entitled under the scheme if, on that date, he or she had retired on the grounds of having become incapable through infirmity of performing the duties of the office.
- (6) In the case of a member who, at the date of death, had ceased to perform pensionable service but had not reached the retiring age and was not receiving a pension under the scheme, it is a reference to the pension to which the member would have been entitled under the scheme if, on that date, he or she had become incapable through infirmity of performing pensionable service.
- (7) In the case of a member whose pension, at the date of death, was suspended under regulation 9 of the Church of England (Pensions) Regulations 1988 (service performed after retirement), it is a reference to a pension at the rate which the Board determined under regulation 17(2) of those Regulations.
- (8) A clerk who, under an agreement under section 15 of the Clergy Pensions Measure 1961 which was in force on 1 April 1989, surrendered to the Board part of the right to a pension, is to be treated for the purposes of this section as having received the pension which the clerk would have received if the clerk had not entered into that agreement.

26 Power of Board to commute pension for capital sum

- (1) The Board may commute a pension payable under the past service scheme to a surviving spouse or civil partner or a child of a deceased member for the capital sum that is estimated to be the actuarial equivalent of the aggregate pension so payable.

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- (2) Where the Board decides to exercise the power under subsection (1) in the case of a person who is aged 18 or over and capable of giving an effective discharge, it must do so by paying that person the capital sum.
- (3) Where the Board decides to exercise the power under subsection (1) in any other case, it must do so by applying the capital sum in whatever manner it thinks fit for the maintenance, education and benefit of the person entitled to the pension.
- (4) The Board may exercise the power under subsection (1) only if payment of a lump sum of an amount equal to the capital sum in question—
 - (a) would be authorised for the purposes of Part 4 of the Finance Act 2004 (taxation of pension schemes), and
 - (b) would satisfy requirements imposed by or under Part 3 of the Pension Schemes Act 1993.
- (5) The Board may deduct from a capital sum under subsection (1) an amount equal to the amount of any income tax payable by the Board in relation to the sum.

Contracted-out employment

27 Guaranteed minimum pension

- (1) This section overrides the preceding provisions of this Part (other than section 26) in so far as they would apply to service by a member of the past service scheme in employment which was contracted-out by reference to the scheme.
- (2) If the member has a guaranteed minimum under section 14 of the Pension Schemes Act 1993 in respect of the contracted-out service, the weekly rate of the pension in respect of that service must—
 - (a) on the date on which the member reaches the state pensionable age, be at least the member's guaranteed minimum;
 - (b) if the member dies leaving a surviving spouse or civil partner, be at least half that guaranteed minimum.
- (3) If the member has not performed a qualifying period of pensionable service, the weekly rate of the pension in respect of the contracted-out service is—
 - (a) on the date on which the member reaches the state pensionable age, equal to the member's guaranteed minimum;
 - (b) if the member dies leaving a spouse or civil partner, equal to half that guaranteed minimum.
- (4) “Weekly rate”, in relation to a pension paid otherwise than at weekly intervals, means a rate equivalent to the guaranteed minimum of the member in question, with regard being had to the period in respect of which the pension is paid.
- (5) A reference to a member's guaranteed minimum, so far as attributable to earnings after 5 April 1988, is a reference to that minimum as increased in accordance with Chapter 2 of Part 5 of the Pension Schemes Act 1993.

28 Commencement, postponement, suspension and discontinuation of pension

- (1) Where a member of the past service scheme retires, having performed a qualifying period of pensionable service in employment which was contracted-out by reference

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to the scheme, the pension under the preceding provisions of this Part in respect of that period of service commences on the earlier of—

- (a) the date when the member reaches state pensionable age, and
 - (b) the date when the member becomes entitled under section 16 to receive the pension.
- (2) But if, in a case where the pension would begin on the date when the member reaches state pensionable age, the member continues in pensionable service after that date, the commencement of the pension is postponed to the end of the period of continued service.
- (3) The payment of the part of the pension which consists of the member's guaranteed minimum may not be postponed under subsection (2) beyond the end of five years from the date on which the member reaches state pensionable age, unless the member consents to the postponement.
- (4) Where the commencement of the member's guaranteed minimum pension is postponed under subsection (2) or suspended under section 21, it increases in accordance with section 15 of the Pension Schemes Act 1993, despite (in the case of a suspension) section 21(3) to (5).
- (5) Where the member satisfies the first or second condition, the commencement of the pension is postponed to—
- (a) the date on which the member reaches the retiring age, or
 - (b) if the member so consents, the date on which the pension would commence but for this subsection.
- (6) The first condition is that the member is a clerk deemed under section 14 of the Incumbents (Vacation of Benefices) Measure 1977 to have become incapable through infirmity of performing the duties of the office.
- (7) The second condition is that the member—
- (a) ceases, or has already ceased, to perform pensionable service before reaching the retiring age and without receiving a pension under the past service 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.
- (8) Where, after the termination of service in employment which was contracted-out by reference to the past service scheme, a member of the scheme dies leaving a surviving spouse or civil partner, the Board may exercise its power under section 22(5) only so as to discontinue payment of the amount (if any) by which the survivor's pension exceeds his or her guaranteed minimum.

Accrued rights

29 Payments in and out

- (1) Where a member of the past service scheme ceases or has already ceased to perform pensionable service and as a result acquires or acquired a right to a cash equivalent under Chapter 4 of Part 4, or Chapter 1 of Part 4ZA, of the Pension Schemes Act

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1993, the Board may use the cash equivalent in whichever way the member chooses to exercise the option under section 95 of that Act.

- (2) Where a member of the past service scheme has acquired rights under a pension scheme other than the past service scheme, the Board—
 - (a) may accept a payment for the transfer of those rights, and
 - (b) may use that payment for the acquisition for that member of such rights under the past service scheme as an actuary may certify as proper.
- (3) Where a member of the past service scheme ceases or has already ceased to perform pensionable service, or dies or has already died, and as a result a contributions equivalent premium becomes or became payable under section 55(2) of the Pension Schemes Act 1993 (in so far as it still has effect in relation to contracted-out employment which ended before 6 April 2016), the Board may pay or continue to pay that premium in accordance with that Act.

30 Revaluation

- (1) Where a member of the past service scheme who has acquired rights under the scheme ceases, or has already ceased, to perform pensionable service before reaching the retiring age, and section 83(1)(a) of the Pension Schemes Act 1993 (revaluation of scheme) applies, any pension or other retirement benefit payable under the scheme must be revalued.
- (2) For the purposes of a revaluation under this section, a benefit is calculated as at the date on which the member ceased to perform pensionable service.
- (3) A revaluation under this section must be done in accordance with—
 - (a) Chapter 2 of Part 4 of the Pension Schemes Act 1993, or
 - (b) such other method, being at least as favourable to the person to whom the benefit is payable, as the Board decides.

General

31 Liability of Church Commissioners

- (1) The Church Commissioners are liable to meet—
 - (a) the cost of a pension arising from the retirement or death of a clerk, deaconess or licensed lay worker in so far as the pension is attributable to service before 1 January 1998,
 - (b) the cost of a lump sum payment arising from the retirement of a clerk, deaconess or licensed lay worker in so far as the payment is attributable to service before that date, and
 - (c) the cost of a lump sum payment arising from the death of a clerk, deaconess or licensed lay worker before that date.
- (2) The amount of a pension or lump sum for the purposes of subsection (1) includes any increase in the rate or amount, any augmentation or any award of supplementary pension, whether made before or after 1 January 1998.
- (3) The amounts required by the Board for payments under the past service scheme must, subject to subsection (4), be paid by the Church Commissioners out of their general fund.

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- (4) The Commissioners may, until 31 December 2025, apply capital funds for the purpose of meeting the cost of any pension or lump sum due to be paid under the past service scheme; and “capital funds” means funds held by the Commissioners the income of which forms part of their general fund.
- (5) The Commissioners may make to the Board grants out of their general fund or loans for any purpose connected with—
 - (a) the payment of pensions to retired members of the past service scheme;
 - (b) the payment of pensions to surviving spouses and civil partners and to children and dependants of deceased members of the past service scheme.
- (6) It is up to the Commissioners to decide the amount of a grant or loan under subsection (5) and the terms on which a loan is made under that subsection.
- (7) The Commissioners may make payments to the Board out of their general fund to meet as much of the Board's administrative expenses as appears to the Board to be proportionate to the work it undertakes in the administration of the past service scheme.

32 Payments for deaconesses and licensed lay workers

- (1) The Church Commissioners may make payments out of their general fund to the Board for the purpose of providing or augmenting—
 - (a) pensions for deaconesses and licensed lay workers, for their surviving spouses or civil partners and for their children and dependants under the past service scheme or in respect of service which ended before 1 December 1988;
 - (b) lump sums paid or payable under the past service scheme to deaconesses and licensed lay workers on retirement.
- (2) The power to make a payment under this section is in addition to the duty to meet the liabilities under section 31.
- (3) A payment under this section may be made on whatever terms and conditions the Commissioners and the Board agree.
- (4) The Board must apply the payments it receives under this section in such manner as it thinks fit for the purpose in question; but, before doing so, it must consult the Commissioners.
- (5) The ways in which the Board may carry out its function under subsection (4) include applying all or part of a payment to the workers' fund or any other fund established for the purpose in question.

33 Administration of scheme etc.

- (1) The Board must continue to administer the past service scheme.
- (2) The things which the Board may do for the purpose of exercising that function include—
 - (a) entering into agreements for the receipt and payment of actuarial equivalents of contributions or pensions;

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- (b) borrowing money to make payments of pensions or lump sum payments in respect of deceased clerks;
 - (c) securing money borrowed under paragraph (b) in whatever manner and on whatever terms and conditions the Board thinks fit.
- (3) The Church Commissioners may, after consulting the Board, give the Board general directions as to the exercise by the Board of its functions in connection with the past service scheme.
- (4) The Commissioners may give a direction under subsection (3) only if it appears to them to be necessary or appropriate for securing a due balance between—
- (a) the amount of the liability imposed on their general fund by virtue of section 31(3), and
 - (b) the resources of their general fund available for meeting that liability.
- (5) The Board must give effect to any direction given under subsection (3).

34 Payment of pension etc.

- (1) A pension under the past service scheme is payable by monthly instalments in arrears, subject to any necessary apportionments.
- (2) The Board may, where a person entitled to a pension under the past service scheme so requests, pay part of an instalment before the end of the month; and it is up to the Board to decide the timing and the amount of the payment.
- (3) A pension under the past service scheme may not be assigned, charged or anticipated and, in the case of bankruptcy, does not pass to the trustee of the bankrupt's estate; and a purported assignment or charge is void.
- (4) But a person entitled to a pension under the past service scheme may, if aged 18 or over and of sound mind, renounce the pension or any part of it by an instrument in writing signed by the member and delivered to the Board; and on a renunciation, the pension determines in whole or part, as the case may be.
- (5) A pension payable under section 23 to a child of a deceased member of the past service scheme may be paid by the Board to—
- (a) the parent or guardian of the child, or
 - (b) such other person under whose care or with whom the child may from time to time reside as the Board thinks fit.
- (6) The person to whom a pension is paid under subsection (5)—
- (a) may pay the whole or part of it to the child for his or her absolute use and benefit, and
 - (b) if the whole of the pension is not paid to the child, must apply the amount not so paid towards the maintenance, education or benefit of the child in whatever manner the person thinks fit.
- (7) In subsection (5)(a), “parent”, in relation to a child, includes—
- (a) a parent of the child who does not have parental responsibility for the child, and
 - (b) a person who is not a parent of the child but who does have parental responsibility for the child.

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- (8) Where, on the retirement or death of a member of the past service scheme, any payment due to be made to the Church Commissioners in respect of the member under an agreement under section 5 is in arrears—
- (a) no instalment of pension may be made under the agreement in respect of the member for so long as the payment remains in arrears, and
 - (b) a pension payable under the agreement is to be retained for as long as necessary and must be applied in discharging the arrears and interest calculated at 5% per annum from the date on which the payment in arrears was due.
- (9) But, where the pension is payable to the surviving spouse or civil partner, or a child or dependant of the member, the Board may waive in whole or part its right to recover the arrears from the member's estate or by retention under subsection (8).
- (10) Where instalments of pension payable to more than one person are retained under subsection (8), the burden of the retention is distributed rateably among those persons in proportion to the amount of the pensions.

35 Payment of pension where person lacks capacity

- (1) This section applies where the Board is satisfied, after considering medical evidence, that a person to whom a pension is payable under the past service scheme (a “pensioner”) lacks capacity to manage and administer his or her property and affairs.
- (2) The Board may pay, or may authorise the Church Commissioners to pay, the pension or such part of it as the Board thinks fit to the institution or person having the care of the pensioner for it to be applied for his or her benefit.
- (3) The Board may pay the whole of the remainder (if any) of the pension, or such part of it as the Board thinks fit, in either or both of the following ways.
- (4) Payment may be made to or for the benefit of persons who appear to the Board to be—
- (a) members of the pensioner's family, or
 - (b) other persons for whom the pensioner might be expected to provide if he or she did not lack capacity to manage and administer his or her property and affairs.
- (5) Payment may be made in reimbursement, with or without interest, of money applied by a person—
- (a) in payment of the pensioner's debts (whether legally enforceable or not), or
 - (b) for the maintenance or other benefit of the pensioner or of persons mentioned in subsection (4).
- (6) A reference to lacking capacity is to be interpreted in accordance with the Mental Capacity Act 2005.

36 Determination of questions

- (1) The Board is to decide any question arising as to—
- (a) whether a clerk, deaconess or licensed lay worker has performed or is performing pensionable service;

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- (b) the length of a qualifying period of pensionable service in any given case or the date on which a qualifying period ended;
 - (c) whether a member of the past service scheme satisfies any other conditions for receiving a pension under the scheme or the terms and conditions on which the pension is payable;
 - (d) whether a member of the scheme has retired or the date on which the member retired;
 - (e) the rate at which a pension under the scheme is to be paid;
 - (f) the right of a member of the scheme to a repayment of payments made by him or her;
 - (g) the rights of a surviving spouse or civil partner or of a child or dependant of a member (including whether or not a particular person is a dependant of a member).
- (2) Before making a decision under subsection (1), the Board must give the member or other person concerned, or his or her agent, an opportunity to be heard.

VALID FROM 01/03/2019

PART 4

GENERAL FINANCIAL PROVISIONS

*Other schemes and funds***37 General Purposes Fund**

- (1) The Board must continue to administer the General Purposes Fund established by resolution of the Board on 17 September 1975.
- (2) The Board must pay into the General Purposes Fund testamentary or other gifts made to it for any of the following purposes—
 - (a) the relief of poverty in the case of a retired clerk or church worker;
 - (b) the relief of poverty in the case of a surviving or former spouse or civil partner or a child or dependant of a deceased clerk or church worker;
 - (c) the provision, maintenance or management of homes of residence for, or the making of loans under section 43 to, retired clerks and church workers and their current or former spouses or civil partners;
 - (d) the provision, maintenance or management of homes of residence for, or the making of loans under section 43 to, the surviving or former spouses or civil partners and the children and dependants of deceased clerks or church workers.
- (3) The Board may, subject to any conditions imposed by the testators or donors in question, apply the General Purposes Fund or any part of it for any of the purposes set out in subsection (2).
- (4) The Board may borrow money on the security of the assets of the General Purposes Fund in order to pay for expenditure incurred for any of the purposes set out in

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subsection (2); and for this purpose the assets of the Fund include homes of residence vested in the Board and certified on its behalf to be maintained out of the Fund to a material extent.

- (5) Any sum purporting to be donated by way of a testamentary or other gift to the Clergy Pensions Augmentation Fund, the Clergy (Widows and Dependants) Pensions Augmentation Fund or the Church Workers Pensions Augmentation Fund is to be treated as donated to the General Purposes Fund.

38 Clergy (Widows and Dependants) Pensions Fund

- (1) The Board must continue to administer the widows and dependants fund.
- (2) The Board must continue to pay out of the fund all the amounts which it was, immediately before the commencement of this section, required to pay under section 18 of the Clergy Pensions Measure 1961 (pensions and capital sums for widows and children of clergy from contributions before 1 December 1988).
- (3) The requirement for the fund to be valued by an actuary at least every five years continues to apply.
- (4) If at any time it appears to the Board after a valuation under subsection (3) that the fund is more than sufficient to make the payments required under subsection (2), it may direct that the surplus, or part of it, is to be applied for increasing the pensions or capital sums payable under that subsection.
- (5) The Board may transfer to the funded scheme the sum for the time being standing to the credit of the fund; and subsections (1) to (4) are subject to this subsection and to subsection (6) accordingly.
- (6) The power under subsection (5) is exercisable by deed; and if the power is exercised, section 12 applies and the requirement under subsection (3) ceases to apply.
- (7) A deed made under subsection (6) must provide for the payment of all the amounts which the Board would otherwise be required to pay under subsection (2) by requiring the Board—
- (a) to make the payments out of the funded scheme, or
 - (b) to make arrangements for securing that alternative provision is in place for the payments to be made.

39 Schemes for church workers

- (1) The Board may establish, administer or participate with others in the administration of—
- (a) pension schemes for the benefit of church workers;
 - (b) pension schemes for the benefit of surviving spouses or civil partners and children and dependants of deceased church workers.
- (2) The Board must continue to administer or to participate with others in the administration of any pension scheme established or administered under section 27 of the Clergy Pensions Measure 1961 and continuing to have effect under section 1 of this Measure; and the scheme is to be treated as if it had been established under this section.

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- (3) A deaconess or licensed lay worker who is performing or has performed pensionable service is not eligible to join a scheme established or administered under this section, unless the Board gives him or her permission to do so.
- (4) The Board may give a clerk permission to join a scheme established or administered under this section.
- (5) A person who is a member of a scheme established or administered under this section is disqualified from continued membership of the scheme if the service performed by that person becomes pensionable service.
- (6) In section 17 of the Church Commissioners Measure 1947 (superannuation), at the end insert—
 - “(4) The Commissioners may, until 31 December 2025, apply capital funds for meeting the cost of any pension or lump sum payable under the Church Commissioners Superannuation Scheme in so far as it is attributable to a period of service before 1 January 1998.
 - (5) In subsection (4), “capital funds” means funds held by the Commissioners the income of which forms part of their general fund.”

40 Additional pension scheme for clerks

- (1) The Board may establish, administer or participate with others in the administration of an additional pension scheme for the benefit of clerks and their surviving spouses or civil partners and their children and dependants.
- (2) A scheme established under this section is supplementary to the past service scheme and the funded scheme; and nothing in a scheme so established is to be taken as affecting any provision of either of those schemes.
- (3) Where a scheme is established under this section, the Church Commissioners may make payments from their general fund of whatever amounts are required by the scheme to be paid by a clerk's employer.

Powers of the Board

41 Provision of residences

- (1) The Board may provide, maintain and manage homes of residence—
 - (a) for retired clerks, deaconesses and licensed lay workers and for their current or former spouses or civil partners;
 - (b) for surviving former spouses or civil partners and for children and dependants of deceased clerks, deaconesses and licensed lay workers.
- (2) The powers under subsection (1) include—
 - (a) a power to assist others in providing, maintaining and managing homes of residence for persons of the description given there,
 - (b) a power to assist others in maintaining persons resident in such homes of residence, and
 - (c) a power to provide nursing care for persons resident in such homes of residence.

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- (3) The things which the Board may do for the purposes of, or in connection with, exercising a power under subsection (1) include—
 - (a) converting buildings or other land,
 - (b) constructing or improving buildings, and
 - (c) assisting others to do something mentioned in paragraph (a) or (b).
- (4) The Board may act alone or jointly with others when exercising, or acting for the purposes of or in connection with, a power under this section.
- (5) The Church Commissioners may make to the Board grants out of their general fund or loans for any purpose connected with the Board's functions under this section; and it is up to the Commissioners to decide the amount of a grant or loan under this subsection and the terms on which a loan under this subsection is made.
- (6) A reference to a home of residence for a person includes a reference to a separate dwelling for that person.
- (7) Nothing in this section authorises the Board to acquire, hold or apply any property (whether real or personal) for purposes other than charitable purposes.
- (8) The Board is to be regarded as having always had the power under subsection (2)(c).

42 Transfer of homes of residence to General Purposes Fund

- (1) Where it appears to the Board that buildings or other land used as or for the purposes of, or held with, a home of residence maintained from the General Purposes Fund should cease to be so used or held, it may transfer the buildings or other land to the Fund.
- (2) The buildings or other land, or the proceeds of sale, are to be treated as capital of the General Purposes Fund; but that capital may be applied only for the acquisition of buildings or other land for use as or for the purposes of a home of residence.
- (3) The Board may not transfer property under this section which is or includes a gift to be used specifically as or for the purposes of a home of residence without the authorisation of an order of the Charity Commission.
- (4) An order under subsection (3) may vary the trusts in question so as to allow the transfer without special directions as to the application of the property or its proceeds or may give directions to that effect.
- (5) An order under subsection (3) may be varied or revoked by a subsequent order of the Charity Commission.
- (6) A reference to a home maintained from the General Purposes Fund is a reference to a home vested in the Board and certified on its behalf to be maintained to a material extent out of that Fund.
- (7) The power of the Board under this section is subject to any expressed directions of the testator or donor as to the manner in which the assets concerned are to be applied (subject to the effect of an order under subsection (3)).

Status: Point in time view as at 20/12/2018. This version of this

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Changes to legislation: There are currently no known outstanding effects for the Church of England Pensions Measure 2018. (See end of Document for details)

43 Loans for residences

- (1) The Board may, on whatever terms it thinks fit, make a loan to a qualifying person to enable him or her to buy, build, rebuild or improve a dwelling in which he or she resides or is to reside.
- (2) Each of the following is a “qualifying person”—
 - (a) a clerk, deaconess or licensed lay worker who has retired or reached the qualifying age, or
 - (b) the surviving or former spouse or civil partner of a deceased clerk, deaconess or licensed lay worker.
- (3) The “qualifying age” is—
 - (a) three years below the retiring age, or
 - (b) such other age below the retiring age as the General Synod may by resolution determine.
- (4) A loan under this section may be made only—
 - (a) on the security of the dwelling in question, and
 - (b) in respect either of a freehold interest or of a leasehold interest the unexpired term of which is at least 60 years.
- (5) A loan under this section may, instead of or in addition to being made to the clerk, deaconess or licensed lay worker concerned, be made to his or her current or former spouse or civil partner.
- (6) A resolution under subsection (3)(b) may be made only on a recommendation of the Board which has itself been made with the agreement of the Church Commissioners; and the resolution may accord with, or may differ from, the recommendation.
- (7) A resolution under subsection (3)(b) does not affect a loan made by the Board before the resolution takes effect.

44 Status as housing association

The Board is to continue to be regarded as a housing association within the meaning of section 1(1) of the Housing Associations Act 1985.

45 Status as trustee

- (1) The Board may accept a transfer of real or personal property subject to existing charitable trusts for the benefit of qualifying persons and may administer the property as trustee.
- (2) The Board may act as custodian trustee, or otherwise as trustee for limited purposes only, of real or personal property subject to charitable trusts for the benefit of qualifying persons; and section 4(1) and (2) of the Public Trustee Act 1906 (which makes provision as to custodian trustees) applies to the Board as it applies to the Public Trustee.
- (3) Each of the following is a “qualifying person”—
 - (a) a retired clerk or church worker,
 - (b) the surviving spouse or civil partner or a child or dependant of a deceased clerk or church worker.

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- (4) The Board is to continue to be a trust corporation for the purposes of—
- (a) the Law of Property Act 1925;
 - (b) the Settled Land Act 1925;
 - (c) the Trustee Act 1925;
 - (d) the Administration of Estates Act 1925;
 - (e) the Senior Courts Act 1981.

46 Investment of money held in pension funds

- (1) The Board may invest money which is in a relevant fund and available for investment—
- (a) in the purchase of investments or property, whether or not of a kind authorised by the general law for the investment of trust funds;
 - (b) on loan, whether or not on the security of property.
- (2) If there is money in a relevant fund which the Board does not think appropriate for immediate investment, it may deposit the money at a bank.
- (3) “Relevant fund” means a fund which the Board administers or of which it is trustee.
- (4) In relation to land (whether freehold or leasehold), the Board may exercise any power of management or improvement which an absolute owner holding the land beneficially would be entitled to exercise.

47 Investment powers

- (1) The Board may invest any money which is in its hands and available for investment—
- (a) in an investment which a trustee would be entitled to make in exercise of the general power of investment under the Trustee Act 2000;
 - (b) in the acquisition of land in England or Wales which is either freehold or leasehold with an unexpired term at the time of acquisition of at least 60 years;
 - (c) in an Investment Fund or Deposit Fund within the meaning of the Church Investment Measure 1958.
- (2) The Board may retain an investment given to it by testamentary or other gift, even if it is not one which the Board would be entitled to make under subsection (1).
- (3) The Board may not exercise the power under subsection (1) by investing in the acquisition of land used as a home of residence under section 41.
- (4) The power under subsection (1)(a) includes power to enter into an option, future, contract for difference, derivative financial instrument or equity instrument (each of which has the same meaning as in Part 7 of the Corporation Tax Act 2009).
- (5) This section is without prejudice to section 46.

48 Section 47: other financial instruments

- (1) The Board may by regulations amend section 47(4) so as to add other financial instruments to those for the time being mentioned there.

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- (2) But regulations under this section may not be made unless a draft of the instrument containing the regulations has been laid before the General Synod and approved by it with or without amendment.
- (3) A draft approved under subsection (2) must be referred to the Board; and on the referral of a draft, the Board must—
 - (a) if the draft was approved without amendment, make the regulations by applying its seal;
 - (b) if the draft was approved with amendment, either make the regulations by applying its seal or withdraw the draft for further consideration.
- (4) Regulations under this section may not come into force before they have been sealed by the Board.
- (5) If the Business Committee of the Synod decides that a draft of regulations under this section does not need to be debated by the Synod, the draft is to be treated as approved by the Synod without amendment unless a member of the Synod gives notice in accordance with its Standing Orders that the member—
 - (a) wishes the draft regulations to be debated, or
 - (b) wishes to move an amendment to them.
- (6) The power to make regulations under this section is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies—
 - (a) as if the regulations had been made by a Minister of the Crown, and
 - (b) as if this Measure were an Act of Parliament providing for the instrument containing the regulations to be subject to annulment in pursuance of a resolution of either House of Parliament.

49 Interest rate

- (1) The Board may alter a rate of interest which is for the time being specified in a provision made by or under this Measure.
- (2) The power to make an alteration under subsection (1) includes power to decide the date on which the alteration takes effect; and that date may be before the date of the decision.
- (3) The Board may not make an alteration under subsection (1) unless—
 - (a) it has obtained the advice of an actuary, and
 - (b) the General Synod has by resolution approved the alteration.

Miscellaneous

50 Audit

- (1) The Board must from time to time appoint an auditor to audit—
 - (a) the accounts of each fund it administers;
 - (b) the accounts of each trust it administers;
 - (c) the accounts of the money it receives from the Church Commissioners.
- (2) An auditor appointed under subsection (1)—
 - (a) must audit the accounts in question annually, and

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- (b) must report to the General Synod on the audited accounts.
- (3) The Board must each year present a report to the General Synod on the funds, trusts and other money referred to in subsection (1).

51 Diocesan widows and dependants committee

- (1) In each diocese, there is to continue to be a diocesan widows and dependants committee appointed by the diocesan board of finance.
- (2) The committee may continue to include representatives of charities whose beneficiaries include surviving spouses and civil partners and children and dependants of deceased clerks, deaconesses or licensed lay workers.
- (3) The function of the committee is to watch over the interests of any surviving spouse or civil partner or of any child or dependant of a deceased clerk, deaconess or licensed lay worker of the diocese.
- (4) The diocesan board of finance must continue to appoint one or more officers whose functions are—
- (a) to bring before the diocesan widows and dependants committee information about the circumstances of the surviving spouses, civil partners and children and dependants concerned,
 - (b) to make representations on their behalf to the committee, and
 - (c) to inform them of their rights under or by virtue of this Measure and of any action taken or proposed to be taken by the committee on their behalf.

52 Miscellaneous administrative payments by Church Commissioners

The Church Commissioners may make payments to the Board out of their general fund to meet as much of the Board's administrative expenses as appears to the Board to be proportionate to the work it undertakes in the administration of other matters in which the Commissioners have a financial interest.

PART 5

MISCELLANEOUS

VALID FROM 01/03/2019

Regulations

53 Power to make further provision by regulations

- (1) Regulations may make further or different provision about—
- (a) a pension or lump sum payment for or in respect of a clerk, deaconess, licensed lay worker or church worker;
 - (b) a pension for the surviving spouse or civil partner or for a child or dependant of a clerk, deaconess, licensed lay worker or church worker;

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- (c) a residence for a retired clerk, deaconess, licensed lay worker or church worker and for his or her spouse or civil partner;
 - (d) a residence for the surviving spouse or civil partner or child or dependant of a retired clerk, deaconess, licensed lay worker or church worker.
- (2) Regulations may make further or different provision about—
- (a) whether the chair of the Board is elected or appointed and the manner of the election or appointment;
 - (b) whether each of the other members is elected or appointed and the manner of the election or appointment;
 - (c) the period for which the chair of the Board holds office as such;
 - (d) the period for which each of the other members holds office as such;
 - (e) disqualification from membership of, or removal from, the Board;
 - (f) filling casual vacancies in the membership of the Board.
- (3) But regulations may not make provision under subsection (2) the effect of which would be that the membership of the Board did not include at least eight persons each of whom is a representative of a pension scheme administered by the Board.
- (4) Regulations may make further or different provision about—
- (a) the manner in which the amount of a contribution required under section 9(2) (the Church of England Pensions Fund) is to be determined;
 - (b) the time at which a contribution required under section 9(2) is to be paid;
 - (c) the manner in which notice is to be given as to a matter mentioned in paragraph (a) or (b);
 - (d) steps which the Board must take before making a determination under section 9(2).
- (5) Regulations under this section may confer a discretion.
- (6) Regulations under this section may include consequential, incidental, supplementary or transitional provision (including provision which amends, repeals or revokes a provision of, or of an instrument made under, a Measure (including this Measure)).
- (7) The power to make regulations under this section is exercisable by the General Synod; but the regulations must be prepared by the Board and, in so far as they relate to the past service scheme, they may not be laid before the Synod for approval without the agreement of the Church Commissioners.
- (8) Regulations under this section may not be made unless a draft of the instrument containing the regulations has been laid before the General Synod and approved by it with or without amendment.
- (9) If the Business Committee of the Synod decides that a draft of regulations under this section does not need to be debated by the Synod, the draft is to be treated as approved by the Synod without amendment unless a member of the Synod gives notice in accordance with its Standing Orders that the member—
- (a) wishes the draft regulations to be debated, or
 - (b) wishes to move an amendment to them.
- (10) The power to make regulations under this section is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies—

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- (a) as if the regulations had been made when the draft was approved by the General Synod, and
- (b) as if this Measure were an Act of Parliament providing for the regulations to be subject to annulment in pursuance of a resolution of either House of Parliament.

54 Power to amend this Measure

- (1) Regulations under section 53 may amend, replace or repeal—
 - (a) any provision in Parts 1 to 4 other than an excepted provision, or
 - (b) sections 55 to 57 (interpretation).
- (2) In Part 1 (continuation of existing arrangements), the excepted provisions are—
 - (a) section 2 (existence of Board);
 - (b) in Schedule 1 (membership and functions etc. of Board), paragraphs 1(1) and 6 to 11.
- (3) In Part 2 (the funded scheme), the excepted provisions are—
 - (a) in section 9 (Church of England Pensions Fund), subsections (1), (2), (3)(b) and (4) to (6);
 - (b) in section 10 (the responsible body), subsections (1), (2)(a) to (c) and (3) to (7);
 - (c) section 11 (liability of Church Commissioners);
 - (d) section 12 (administration of funded scheme).
- (4) In Part 3 (the past service scheme), the excepted provisions are—
 - (a) section 31 (liability of Church Commissioners);
 - (b) section 33 (Board's functions);
 - (c) section 36 (past service scheme: determination of questions).
- (5) In Part 4 (general financial matters), the excepted provisions are—
 - (a) in section 37 (General Purposes Fund), subsection (4);
 - (b) section 38 (Clergy (Widows and Dependants) Pensions Fund);
 - (c) in section 39 (schemes for church workers), subsection (6);
 - (d) section 42 (transfer of homes of residence to General Purposes Fund);
 - (e) section 43 (power of Board to make loans for residences);
 - (f) section 44 (Board's status as housing association);
 - (g) section 45 (Board's status as trustee);
 - (h) sections 47 and 48 (Board's investment powers);
 - (i) section 50 (audit);
 - (j) section 52 (miscellaneous administrative payments by Church Commissioners).

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VALID FROM 01/03/2019

Interpretation

55 References to officers and staff

- (1) This section applies for the purposes of this Measure.
- (2) “Clerk” means a bishop, priest or deacon of the Church of England.
- (3) “Licensed lay worker” means a person who has been authorised by a bishop as a lay worker of the Church of England and—
 - (a) is authorised to serve as such by a licence, or
 - (b) if the person was a member of the workers' fund on 1 December 1988, is authorised to serve as such whether by licence or otherwise.
- (4) “Church worker” means a person, other than a clerk, who is or has been employed in spiritual or temporal work in connection with the Church of England.

56 References to spouses, children, etc.

- (1) This section applies for the purposes of this Measure.
- (2) A reference to a spouse includes a reference to a person married to somebody of the same sex; and references to marriage are to be construed accordingly.
- (3) A reference to the surviving spouse or civil partner of a deceased person is a reference to the person who was the spouse or civil partner of the deceased at the time of death.
- (4) “Child”, in relation to a person, includes—
 - (a) a step-child of that person, and
 - (b) a child of that person's civil partner.
- (5) “Dependant”, in any given case, has whatever meaning the Board may determine, having regard to all the circumstances.

57 References to pension schemes etc.

- (1) This section applies for the purposes of this Measure.
- (2) “Funded scheme”, “past service scheme”, “workers' fund”, “administrators' fund” and “widows and dependants fund” each have the meaning given in section 1.
- (3) “The Board” has the meaning given in section 2.
- (4) “Pensionable service”, “qualifying period of pensionable service” and “approved scheme” each have the meaning given in section 3.
- (5) “Stipendiary ecclesiastical service” has the meaning given in section 4.
- (6) “Retiring age” has the meaning given in section 14.
- (7) “Actuary” means a Fellow of the Institute and Faculty of Actuaries who is not one of the Church Commissioners or a member of the Commissioners' staff or a member of

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the Board or a member of its staff; and a reference to an actuary includes a reference to a firm of actuaries.

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Ancillary provisions

58 Consequential provision

Schedule 3 (which contains consequential amendments) has effect.

59 Transitional and saving provision

Schedule 4 (which contains transitional and saving provisions) has effect.

60 Repeals and revocations

Schedule 5 (which contains repeals and revocations) has effect.

Final provisions

61 Commencement

- (1) This section and sections 62 and 63 come into force on the day on which this Measure is passed.
- (2) The preceding provisions of this Measure come into force on such day as the Archbishops of Canterbury and York may by order jointly appoint; and different days may be appointed for different purposes.
- (3) The Archbishops of Canterbury and York may by order jointly make transitional, transitory or saving provision in connection with the commencement of a provision of this Measure.
- (4) The power to make an order under subsection (2) or (3) is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies as if the order had been made by a Minister of the Crown and as if this Measure were an Act of Parliament.

62 Extent and application

- (1) This Measure extends to—
 - (a) the whole of the province of Canterbury, except the Channel Islands (subject to subsection (2)), and
 - (b) the whole of the province of York, including the Isle of Man.
- (2) This Measure may be applied to the Channel Islands, or either of them, in accordance with the Channel Islands (Church Legislation) Measures 1931 and 1957; and a reference in this section to the Channel Islands or either of them has the same meaning as a reference in those Measures to the Islands or either of them.

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- (3) This Measure applies to the diocese in Europe as if it were a diocese in the province of Canterbury.

63 Short title

This Measure may be cited as the Church of England Pensions Measure 2018.

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SCHEDULES

SCHEDULE 1

Section 2

THE CHURCH OF ENGLAND PENSIONS BOARD

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SCHEDULE 2

Section 16(4)

PAST SERVICE SCHEME: PENSIONS AND LUMP SUM PAYMENTS

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.....
.....
.....

SCHEDULE 3

Section 58

CONSEQUENTIAL AMENDMENTS

Church Commissioners Measure 1947

- 1 In section 10 of the Church Commissioners Measure 1947 (finance), in subsection (6) (use of general fund), for “section 7 of the Pensions Measure 1997 (which relates to the use of capital funds)” substitute “ sections 31(4) and 39(6) (which relate to the use of capital funds) ”.

Incumbents (Vacation of Benefices) Measure 1977

- 2 The Incumbents (Vacation of Benefices) Measure 1977 is amended as follows.
- 3 In section 13 (compensation), omit subsection (3).
- 4 (1) Section 14 (pension provision where incumbent unable to perform duties) is amended as follows.
- (2) In subsection (1), for the words from “the Church of England (Pensions) Measures” to “1972” substitute “ the Church of England Pensions Measure 2018 ”.
- (3) In subsection (2), for “the said Measures and regulations” substitute “ the Church of England Pensions Measure 2018 ”.
- 5 (1) Schedule 2 (compensation) is amended as follows.

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- (2) In paragraph 2 (payment of basic award), in sub-paragraph (1)(a)(i), for the words from “within the meaning” to “rules)” substitute “ to which the funded scheme applies ”.
- (3) In sub-paragraph (2) of that paragraph—
- (a) in paragraph (b), for “the pensions regulations or the Funded Scheme rules” substitute “ the past service scheme or the funded scheme ”, and
 - (b) in paragraph (c), for “within the meaning of the Funded Scheme rules” substitute “ to which the funded scheme applies ”.
- (4) In paragraph 7 (liability of diocesan board of finance), for “section 4 of the Pensions Measure 1997” substitute “ Part 2 of the Church of England Pensions Measure 2018 ”.
- (5) In paragraph 8(1) (interpretation)—
- (a) at the appropriate place insert each of the following—

““funded scheme” has the same meaning as in the Church of England Pensions Measure 2018;”;

““past service scheme” has the same meaning as in the Church of England Pensions Measure 2018;”;
 - (b) omit the definition of “the Funded Scheme Rules”,
 - (c) omit the definition of “pensions regulations”,
 - (d) in the definition of “retiring age”, for “the Funded Scheme rules” substitute “ the Church of England Pensions Measure 2018 ”, and
 - (e) in the definition of “stipendiary ecclesiastical service”, for “the pensions regulations” substitute “ the Church of England Pensions Measure 2018 ”.

Commencement Information

II Sch. 3 para. 5 in force at 1.3.2019 by [S.I. 2019/98](#), [art. 2](#)

Mission and Pastoral Measure 2011

- 6 In Schedule 4 to the Mission and Pastoral Measure 2011 (compensation of office-holders), in paragraph 3(1)(b) (amount of compensation), for “section 4(1) of the Pensions Measure 1997” substitute “ section 9(2) of the Church of England Pensions Measure 2018 ”.

Church of England (Miscellaneous Provisions) Measure 2018

- 7 In section 11 of the Church of England (Miscellaneous Provisions) Measure 2018 (statutory bodies: execution of documents), in the Table in subsection (7), in the second column of the entry for the Board, for “Section 21(13A) or (13B) of the Clergy Pensions Measure 1961” substitute “ In Schedule 1 to the Church of England Pensions Measure 2018, paragraph 11(3) or (4). ”

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SCHEDULE 4

Section 59

TRANSITIONAL AND SAVING PROVISIONS

Continuity of the law

- 1 The repeal and re-enactment of provisions by this Measure does not affect the continuity of the law.
- 2 A reference, express or implied, in this Measure, another enactment or an instrument or document, to a provision of this Measure is, subject to its context, to be read as being or including a reference to the corresponding provision repealed by this Measure, in relation to times, circumstances or purposes in relation to which the repealed provision had effect.
- 3 A reference, express or implied, in an enactment, instrument or document to a provision repealed by this Measure is, subject to its context, to be read as being or including a reference to the corresponding provision of this Measure, in relation to times, circumstances or purposes in relation to which that provision has effect.
- 4 (1) Anything done, or having effect as if done, under (or for the purposes of or in reliance on) a provision repealed and re-enacted by this Measure, and in force or effective immediately before the commencement of the corresponding provision of this Measure, has effect after that commencement as if done under (or for the purposes of or in reliance on) that corresponding provision.
- (2) The reference in sub-paragraph (1) to things done does not include a reference to the rules and regulations made under a provision repealed by this Measure.
- 5 The generality of paragraphs 1 to 4 is not affected by any other provision of this Measure which itself provides for a specified thing done under a provision repealed and re-enacted by this Measure to be treated as if done under the corresponding provision of this Measure.
- 6 Paragraphs 1 to 4 have effect in place of section 17(2) of the Interpretation Act 1978; but nothing in this Schedule affects any other provision of that Act.

Effect of previous transitionals and savings

- 7 The repeals made by this Measure do not affect the operation of a transitional provision or saving relating to the commencement of a provision reproduced in this Measure so far as the transitional provision or saving is not specifically reproduced in this Measure but remains capable of having effect in relation to the corresponding provision of this Measure or otherwise.
- 8 (1) The repeal by this Measure of a provision previously repealed subject to savings does not affect the continued operation of those savings.
- (2) The repeal by this Measure of a saving on the previous repeal of a provision does not affect the operation of the saving in so far as it is not specifically reproduced in this Measure but remains capable of having effect.

Use of existing documents

- 9 A reference to a provision repealed by this Measure which is contained in a document made, served, granted or issued after the commencement of the repeal

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is, subject to its context, to be read as being or including a reference to the corresponding provision of this Measure.

References to “repeal”

10 In this Schedule, a reference to a repeal includes a reference to a revocation.

SCHEDULE 5

Section 60

REPEALS AND REVOCATIONS

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Status:

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Changes to legislation:

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