



# Church of England Pensions Measure 2018

2018 No. 9

## 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.

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#### **Commencement Information**

**II** [S. 13](#) in force at 1.3.2019 by [S.I. 2019/98](#), [art. 2](#)

#### *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,

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becomes entitled to receive a pension under the scheme from the Board in each of the following cases.

- (3) The first case is where the member retires on or after reaching the retiring age.
- (4) The second case is where the member retires before reaching the retiring age on grounds of having become incapable through infirmity of performing the duties of his or her office.
- (5) The third case is where the member—
  - (a) ceases, or has already ceased, to perform pensionable service before reaching the retiring age and without being entitled to receive a pension under the scheme, and
  - (b) after ceasing to perform pensionable service but before reaching the retiring age, satisfies the Board that he or she has become incapable through infirmity of performing pensionable service.
- (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.

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**Commencement Information**

**I2** S. 14 in force at 1.3.2019 by S.I. 2019/98, art. 2

## **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.

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- (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.

#### **Commencement Information**

**I3** S. 15 in force at 1.3.2019 by S.I. 2019/98, art. 2

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

- (1) Where a member of the past service scheme was receiving a pension under the scheme immediately before the commencement of this section, the pension continues to be payable for the rest of the member's life.
- (2) Where a member of the past service scheme becomes entitled after the commencement of this section to receive a pension under the scheme, the pension—
  - (a) becomes payable when the member retires, and
  - (b) continues to be payable for the rest of the member's life.
- (3) Where a member of the past service scheme becomes entitled after the commencement of this section to receive a lump sum payment, it is payable when the member retires.
- (4) The rate of a member's pension under the past service scheme and the amount of the lump sum payment to which a member is entitled are determined in accordance with Schedule 2.
- (5) A member of the past service scheme who—
  - (a) ceases, or has already ceased, to perform pensionable service before reaching the retiring age and without receiving a pension under the scheme, and
  - (b) after ceasing to perform pensionable service but before reaching the retiring age, satisfies the Board that he or she has become incapable through infirmity of performing pensionable service,is to be treated for the purposes of this Part as retiring on the date on which the Board becomes so satisfied.
- (6) A member of the past service scheme who—
  - (a) ceases, or has already ceased, to perform pensionable service before reaching the retiring age, and
  - (b) on the date of reaching the retiring age, is neither performing pensionable service nor receiving a pension under the scheme,is to be treated for the purposes of this Part as retiring on the date on which he or she reaches the retiring age.

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- (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.

#### Commencement Information

**I4** S. 16 in force at 1.3.2019 by S.I. 2019/98, art. 2

## 17 Increase in rate of pension

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

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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.

#### Commencement Information

**I5** S. 17 in force at 1.3.2019 by S.I. 2019/98, art. 2

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

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

#### Commencement Information

**I6** S. 18 in force at 1.3.2019 by S.I. 2019/98, art. 2

### 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

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1988, with a requirement imposed by virtue of regulation 7(2) of those Regulations.

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

#### **Commencement Information**

**I7** S. 19 in force at 1.3.2019 by S.I. 2019/98, art. 2

## **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.

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- (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.

**Commencement Information**

**18** S. 20 in force at 1.3.2019 by S.I. 2019/98, art. 2

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

- (1) This section applies where a member of the past service scheme—
- has retired and is receiving a pension under the scheme, but
  - has not reached the age which is five years above whatever the retiring age for the time being is, and
  - 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 pension at the rate that the Board determines, and
  - 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.

**Commencement Information**

**19** S. 21 in force at 1.3.2019 by S.I. 2019/98, art. 2

*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



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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.

#### **Commencement Information**

**I10** S. 22 in force at 1.3.2019 by S.I. 2019/98, art. 2

## **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.
- (5) The pension payable under the past service scheme to a child of a deceased member of the scheme is equal to—



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- (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.

#### **Commencement Information**

**III** S. 23 in force at 1.3.2019 by S.I. 2019/98, art. 2

## **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.

#### Commencement Information

**I12** S. 24 in force at 1.3.2019 by S.I. 2019/98, art. 2

## 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.

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**Commencement Information**

**II3** S. 25 in force at 1.3.2019 by S.I. 2019/98, art. 2

**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.
- (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.

**Commencement Information**

**II4** S. 26 in force at 1.3.2019 by S.I. 2019/98, art. 2

*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—

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- (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.

#### Commencement Information

**I15** S. 27 in force at 1.3.2019 by S.I. 2019/98, art. 2

## 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 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—

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- (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.

**Commencement Information**

**I16** S. 28 in force at 1.3.2019 by S.I. 2019/98, art. 2

*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 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.

**Commencement Information**

**I17** S. 29 in force at 1.3.2019 by S.I. 2019/98, art. 2

**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.

*Status: Point in time view as at 01/03/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Church of England Pensions Measure 2018, PART 3. (See end of Document for details)*

- (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.

#### **Commencement Information**

**I18** S. 30 in force at 1.3.2019 by S.I. 2019/98, art. 2

### *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.
- (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.

*Status: Point in time view as at 01/03/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Church of England Pensions Measure 2018, PART 3. (See end of Document for details)*

**Commencement Information**

**I19** S. 31 in force at 1.3.2019 by S.I. 2019/98, art. 2

**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.

**Commencement Information**

**I20** S. 32 in force at 1.3.2019 by S.I. 2019/98, art. 2

**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;
  - (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—



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- (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).

#### **Commencement Information**

**I21** S. 33 in force at 1.3.2019 by S.I. 2019/98, art. 2

### **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.
- (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

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- (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.

**Commencement Information**

**I22** S. 34 in force at 1.3.2019 by S.I. 2019/98, art. 2

**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.

**Commencement Information**

**I23** S. 35 in force at 1.3.2019 by S.I. 2019/98, art. 2

**36 Determination of questions**

- (1) The Board is to decide any question arising as to—

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- (a) whether a clerk, deaconess or licensed lay worker has performed or is performing pensionable service;
  - (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.

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**Commencement Information**

**I24** S. 36 in force at 1.3.2019 by S.I. 2019/98, art. 2

**Status:**

Point in time view as at 01/03/2019.

**Changes to legislation:**

There are currently no known outstanding effects for the Church of England Pensions Measure 2018, PART 3.