# Church of England Pensions Measure 2018

**2018 No. 9**

## PART 3

THE PAST SERVICE SCHEME

*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.

(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.

(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.

(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.