



# Clergy Pensions Measure 1961

1961 No. 39 and 10 Eliz 2

## PARTS I AND II

1—16. ....<sup>F1</sup>

### Textual Amendments

**F1** Pts. I, II (ss. 1–16) repealed by [S.I. 1988/2256, reg. 36, Sch. 2](#)

## PART III

### FINANCE AND ADMINISTRATION

### Modifications etc. (not altering text)

**C1** Pt. III (ss. 17–34) amended by [Clergy Pensions \(Amendment\) Measure 1972 \(No. 5, SIF 21:5\), s. 6\(3\)](#)

**C2** Pt. III (ss. 17–34) extended by [Deacons \(Ordination of Women\) Measure 1986 \(No. 4, SIF 21:5\), s. 3\(1\)](#)

### *Financial Provisions*

## 17 Payments out of general fund of Commissioners.

(1) All payments to be made by the Commissioners under Part I of this Measure [<sup>F2</sup>or under section 3(1) of the Clergy Pensions (Amendment) Measure 1967] shall be made by them out of their general fund.

(2) The Commissioners shall pay to the Board out of their general fund such sum as is required by the Board for the payments to be made by them under [<sup>F3</sup>sections 10, 10A

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and 10B of this Measure or under section 3(1A) of the Clergy Pensions (Amendment) Measure 1967].

- (3) The Commissioners shall have power to make from time to time to the Board grants out of their general fund [<sup>F4</sup>or loans] of such amounts as they may think expedient [<sup>F4</sup>and, in the case of any loan, on such terms as they think fit] for any purpose connected with the payment of pensions to [<sup>F5</sup>retired scheme members or to the widows, widowers and dependants of deceased scheme members][<sup>F4</sup>or with the powers of the Board under section 26 of this Measure].

#### Textual Amendments

- F2** Words inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 11(a)  
**F3** Words substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 11(b)  
**F4** Words inserted by Clergy Pensions (Amendment) Measure 1982 (No. 2, SIF 21:5), s. 1  
**F5** Words substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 11(c)

## 18 Clergy (Widows and Dependants) Pensions Fund.

- (1) The Board shall continue to administer the Clergy (Widows and Dependants) Pensions Fund established under the <sup>M1</sup>Clergy Pensions Measure 1954.
- [<sup>F6</sup>(2) The Board shall pay out of the said Fund all payments required to be made by them in respect of contributions or other sums received by them under section 11, 13, 14 or 15 of this Measure.]
- (3) If at any time it appears to the Board, after the valuation provided for by subsection (4) of section thirty-four of this Measure, that the Clergy (Widows and Dependants) Pensions Fund is more than sufficient to discharge the liabilities imposed on them by [<sup>F7</sup>in respect of contributions or other sums received by them under section 11, 13, 14 or 15 of this Measure], the Board may direct, . . . <sup>F8</sup>, that the surplus or any part thereof be applied [<sup>F9</sup>for the increase of pensions or capital sums payable in respect of those contributions or other sums].

#### Textual Amendments

- F6** S. 18(2) substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), Sch. 2 para. 7(a)  
**F7** Words substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), Sch. 2 para. 7(b)  
**F8** Words repealed by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 12(a)  
**F9** Words substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), Sch. 2 para. 7(b)

#### Marginal Citations

- M1** 1954 No. 4.

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## 19 Clergy Pensions Augmentation Fund.

The Board shall continue to administer the Clergy Pensions Augmentation Fund established under the <sup>M2</sup>Clergy Pensions Measure 1948 and shall pay into that fund any testamentary or other gifts made to the Board:—

- (a) for the relief of poverty in the case of any retired clerk; or
- [<sup>F10</sup>(b) for the provision of homes of residence for retired clerks and their spouses, and for the widows, widowers and dependants of deceased clerks, in accordance with the provisions of section twenty-six of this Measure;]

and, subject to any conditions imposed by the testators or other donors, the Board may at their discretion apply the fund or any part thereof for those purposes.

### Textual Amendments

**F10** S. 19(b) substituted by [Deacons \(Ordination of Women\) Measure 1986 \(No. 4, SIF 21:5\), s. 3\(3\), Sch. para. 2](#)

### Modifications etc. (not altering text)

**C3** S. 19 explained as to provision of houses of residence by [Clergy Pensions \(Amendment\) Measure 1967 \(No. 1\), s. 4\(2\)](#)

**C4** Ss. 19, 20 amended by [Clergy Pensions \(Amendment\) Measure 1982 \(No. 2, SIF 21:5\), s. 2\(2\)](#)

### Marginal Citations

**M2** 1948 No. 1.

## 20 Clergy (Widows and Dependants) Pensions Augmentation Fund.

(1) The Board shall continue to administer the Clergy (Widows and Dependants) Pensions Augmentation Fund established under the <sup>M3</sup>Clergy Pensions Measure 1948 and shall pay into that fund any testamentary or other gifts made to the Board:—

- (a) for the relief of poverty in the case of any widow [<sup>F11</sup>widower], child or dependant of a deceased clerk; or
- (b) for the provision of homes of residence for the widows [<sup>F11</sup>widowers] and dependants of deceased clerks in accordance with the provisions of section twenty-six of this Measure;

and, subject to any conditions imposed by the testators or other donors, the Board may at their discretion apply the fund or any part thereof for those purposes.

(2) The Board shall pay into a separate account of the said fund any sums received from a diocese for the relief of poverty in the case of any widow [<sup>F12</sup>widower] or dependant of a deceased clerk, and the Board shall hold any such sums on behalf of the diocese by whom they were paid and shall add to those sums interest, at such rate as the Board may from time to time determine, on any amount held by the Board for that diocese under this subsection for a calendar year.

(3) The Board shall pay out of the said account any payments required to be made by them for the said purpose by a diocese, not exceeding in aggregate the total of the sums paid to them by that diocese together with any interest payable thereon under the last foregoing subsection.

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#### Textual Amendments

- F11** Word inserted by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), ss. 10(3), 18(1), **Sch. 2 para. 8(a)**
- F12** Word inserted by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), ss. 10(3), 18(1), **Sch. 2 para. 8(b)**

#### Modifications etc. (not altering text)

- C5** [S. 20](#) explained as to provision of homes of residence by [Clergy Pensions \(Amendment\) Measure 1967 \(No. 1\)](#), **s. 4(2)**
- C6** [Ss. 19, 20](#) amended by [Clergy Pensions \(Amendment\) Measure 1982 \(No. 2, SIF 21:5\)](#), **s. 2(2)**

#### Marginal Citations

- M3** 1948 No. 1.

### *Constitution of the Board*

#### **21 Constitution of Board.**

- (1) There shall continue to be a board to be called “The Church of England Pensions Board” (in this Measure referred to as “the Board”) and the Board shall exercise and perform the functions assigned to them by this Measure.
- (2) The Board shall be a body corporate with perpetual succession and a common seal.
- (3) The Board shall consist of a chairman appointed by the Church Assembly and [<sup>F13</sup>twenty-one] other members appointed or elected as follows:—
  - (a) sixteen members shall be elected by the Church Assembly of whom eight shall be persons ordinarily resident in the Province of Canterbury and eight shall be persons ordinarily resident in the Province of York;
  - (b) five members shall be appointed by the Commissioners of whom one shall be a diocesan bishop; . . . <sup>F14</sup>
- (4) Subject to the provisions of this section, the chairman of the Board shall hold office for such period as the Church Assembly may determine, not being longer than six years, and the other members of the Board shall hold office for a period of six years: Provided that where there is delay in electing or appointing new members, the existing elected or appointed members of the Board shall, notwithstanding the expiration of the period for which they were elected or appointed, as the case may be, continue to hold office until the election or appointment of their successors.
- (5) A casual vacancy occurring among the members of the Board appointed by the Commissioners shall be filled as soon as possible by the Commissioners, and [<sup>F15</sup>any casual vacancy occurring among members elected by the General Synod shall be filled as soon as possible by the Standing Committee of the Synod by the appointment of a person ordinarily resident in the province in which the member replaced was ordinarily resident at the time of his election.]
- (6) A person elected or appointed to fill a casual vacancy shall hold office only for the remainder of the period for which the member replaced would have held office.
- (7) The chairman and any other member of the Board vacating office shall be eligible for re-election or re-appointment.

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- (8) The chairman or any other member of the Board may for good cause be removed from office by the body by whom he was elected or appointed.
- (9) The Board may act notwithstanding a vacancy among the members thereof.
- (10) The quorum of the Board shall be seven.
- (11) Subject to the foregoing provisions of this section, the Board may make standing orders regulating their own procedure.
- (12) The common seal of the Board shall be judicially noticed and shall be authenticated by the signature of the secretary or of some other officer of the Board authorised by the Board to act for that purpose.
- (13) Any document purporting to be a document duly executed under the seal of the Board shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

#### **Textual Amendments**

- F13** Words substituted by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), ss. 10(3), 18(1), [Sch. 2 para. 9\(a\)](#)
- F14** Words from “and (c) not more than” to the end of subsection (3) repealed by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), ss. 10(3), 18(1), [Sch. 2 para. 9\(a\)](#)
- F15** Words substituted for from “any other casual vacancy” to the end of the subsection by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), ss. 10(3), 18(1), [Sch. 2 para. 9\(b\)](#)

## **22 Provisions as to officers and servants, and working expenses, of the Board.**

- (1) Subject to the provisions of this Measure, the Board may appoint such officers and servants as may be necessary for the purpose of carrying this Measure into effect, and may determine their duties and remuneration.
- (2) The Commissioners shall defray out of their general fund:—
  - (a) the salaries or other remuneration of the officers and servants of the Board, and
  - (b) the working expenses of the Board.
- (3) The Commissioners may, after consultation with the Board, give to the Board directions of a general character as to the employment by them of officers and servants, as to the salaries or other remuneration of their officers and servants, and as to the incurring by the Board of working expenses, in so far as it appears to the Commissioners that things done as to any of those matters will or may affect substantially the amount of the liability imposed on their general fund thereby, and the Board shall give effect to any such directions.

## **23 Appointment of committees.**

- (1) The Board may, if they think fit, appoint committees consisting of members of the Board and, subject to the provisions of this Measure, may delegate to such committees any of their functions.
- (2) The Board may appoint any persons or any body of persons, whether members of the Board or not, to act, upon such terms and conditions as may be laid down by the

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Board, as local committees for any areas, whether dioceses or not, and, subject to the provisions of this Measure, may delegate to such committees any of their functions.

*Powers of the Board*

**24 General functions of the Board in relation to pensions.**

The Board shall control and administer the system of pensions established by this Measure and for that purpose shall have power:—

- (a) to enter into agreements for the receipt and payment of actuarial equivalents of any contributions or pensions under this Measure; and
- (b) to borrow money for the purposes of [<sup>F16</sup>pensions or lump sum payments in respect of deceased clerks] and to secure the money upon the Clergy (Widows and Dependants) Pensions Fund or any of its assets.

**Textual Amendments**

**F16** Words substituted by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), ss. 10(3), 18(1), [Sch. 2 para. 10](#)

**25 Power of Commissioners to give directions as to exercise of functions of Board.**

The Commissioners may, after consultation with the Board, give to the Board directions of a general character as to the exercise and performance by the Board of their functions, being directions which appear to the Commissioners to be requisite or expedient for securing a due balance between the amounts respectively of the liability imposed on their general fund by virtue of subsection (1) and subsection (2) of section seventeen of this Measure on the one hand and the resources of that fund available for meeting the liability on the other hand, and the Board shall give effect to any such directions.

**26 Powers of Board as to provision of residences.**

(1) The Board shall have power:—

- [<sup>F17</sup>(a) to provide, maintain and manage homes for the residence of retired clerks, deaconesses and licensed lay workers and the spouses of retired clerks, deaconesses and licensed lay workers;
- (b) to provide, maintain and manage homes for the residence of the widows, widowers and dependants of deceased clerks, deaconesses and licensed lay workers]
- (c) to assist others in providing, maintaining or managing any such homes as are mentioned in the two last foregoing paragraphs; and
- (d) to assist others in maintaining any such persons as are mentioned in paragraphs (a) and (b) of this subsection in homes of residence for such persons and other persons.
- (e) ..... <sup>F18</sup>

(2) For the purposes of exercising any of their powers under the last foregoing subsection the Board may:—

- (a) acquire, hold, maintain, convert or repair any land or buildings;

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- (b) assist other persons in acquiring, maintaining, converting or repairing any land or buildings;
  - (c) construct or improve, or assist other persons in the construction or improvement of, houses or buildings of any kind.
- (3) Each of the several acts and things which the Board have power to do by virtue of the foregoing provisions of this section may be done either alone or in conjunction with other persons.
- <sup>F19</sup>[ <sup>F20</sup>The Board shall have power to make a loan, on such terms as the Board think fit—  
<sup>F20</sup>(3A)]
- (a) to a clerk, deaconess or licensed lay worker who has retired or has attained the requisite age; or
  - (b) to the widow or widower of a deceased clerk, deaconess or licensed lay worker;
- to assist him or her to purchase, build, rebuild or improve a dwelling-house (including a flat) in which he or she resides or is to reside, being a loan made on the security of the dwelling-house and in respect of a freehold interest or a leasehold interest the unexpired term of which is not less than sixty years; and any loan which the Board has power to make under this subsection to a person mentioned in paragraph (a) above may instead be made to the spouse of that person.
- In this subsection “the requisite age” means three years below retiring age or such other age below retiring age as the General Synod may by resolution from time to time determine in relation to the retiring age for men or in relation to the retiring age for women.]
- A resolution shall not be made except on a recommendation of the Board made with the concurrence of the Commissioners and a resolution may be in accordance with, or different from, a recommendation.
- [ A resolution under subsection (3A) above]shall not affect a loan made by the Board  
<sup>F21</sup>(3B) before the resolution takes effect.]
- (4) <sup>F22</sup>The Board may defray any expenditure incurred by them in the exercise, for the benefit of retired clerks and their spouses or for the benefit of the widows, widowers or dependants of deceased clerks, of the powers conferred by the foregoing provisions of this section], out of the Clergy Pensions Augmentation Fund or the Clergy (Widows and Dependants) Pensions Augmentation Fund, and may also, for the purpose of defraying any such expenditure, borrow money on the security of any assets belonging to either of the said Funds:  
Provided that:—
- (a) nothing in this subsection shall authorise the use of assets belonging to the Clergy (Widows and Dependants) Pensions Augmentation Fund, or of moneys borrowed on the security of those assets, for the benefit of persons other than widows [<sup>F23</sup>widowers] and dependants of deceased clerks; and
  - (b) the powers conferred by this subsection shall, in relation to any assets belonging to either of the said Funds, have effect subject to any expressed directions of the testators or other donors relating to the manner in which those assets are to be applied.
- (5) Nothing in this section shall authorise the Board to acquire, hold or apply any property, whether real or personal, for any purposes other than charitable purposes.

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#### Textual Amendments

- F17** S. 26(1)(a)(b) substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3), 12(1)(a)**
- F18** S. 26(1)(e) repealed by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 12(1)(b), 18(2), **Sch. 3**
- F19** S. 26(3A) inserted by Clergy Pensions (Amendment) Measure 1982 (No. 2, SIF 21:5), **s. 2(1)**
- F20** “(3A)” and words following substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3), 12(2)(a)**
- F21** Words substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3), 12(2)(b)**
- F22** Words substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3), 12(3)**
- F23** Word inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3), 12(3)**

#### Modifications etc. (not altering text)

- C7** S. 26(4) explained as to assets of the Funds by Clergy Pensions (Amendment) Measure 1967 (No. 1), **s. 4(4)**
- C8** S. 26 modified (5.11.1993) by 1993 Measure No. 3, **s.2** (with s. 9(2)).

## 27 Power of Board to administer pensions schemes for church workers.

- [<sup>F24</sup>(1)] The Board shall have power to establish, administer or participate with others in the administration of pensions schemes for the benefit of church workers or the widows [<sup>F25</sup>widowers] or dependants of such workers and may, in conjunction with the exercise of their said powers, acquire and hold property, whether real or personal, either alone or jointly with others.
- [<sup>F26</sup>(2) A deaconess or licensed lay worker who is performing, or has performed, service which is, or is treated as, pensionable service for the purposes of this Measure shall not be eligible to join a scheme established or administered under this section, unless the Board at their discretion grant the deaconess or lay worker permission to do so.
- (3) The Board may at their discretion grant a clerk permission to join a scheme established or administered under this section.
- (4) A person who is a member of a scheme established or administered under this section shall be disqualified from continued membership thereof if the service performed by that person becomes service which is, or is treated as, pensionable service for the purposes of this Measure.]

#### Textual Amendments

- F24** “(1)” inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3), 13**
- F25** Word inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3), 13**
- F26** S. 27(2)–(4) substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), **ss. 10(3), 13** for paragraph inserted by Clergy Pensions (Amendment) Measure 1982 (No. 2, SIF 21:5), **s. 3**



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## 28 Power of Board to establish Church Workers Pensions Augmentation Fund.

The Board shall have power to establish a fund to be called “The Church Workers Pensions Augmentation Fund” and shall have power to pay into that fund any testamentary or other gifts made to the Board—

- (a) for the relief of poverty in the case of any retired church worker or the widow [F27 widower] or dependant of a deceased church worker; or
- (b) for the provision [F28 maintenance or management] of homes of residence for retired church workers and their [F29 spouses] and for the widows [F30 widowers] and dependants of deceased church workers in accordance with the provisions of section twenty-six of this Measure;

and the Board may at their discretion apply the said Fund or any part thereof for those purposes, and may also borrow money on the security of the assets of the said Fund in order to defray expenditure incurred for the said purposes:

Provided that the powers conferred by this section shall have effect subject to any expressed directions of the testators or other donors relating to the manner in which the assets of the Fund are to be applied.

### Textual Amendments

- F27** Word inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 11(a)**
- F28** Words inserted by Clergy Pensions (Amendment) Measure 1967 (No. 1), **s. 4(3)**
- F29** Word substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 11(b)**
- F30** Word inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 11(b)**

### Modifications etc. (not altering text)

- C9** S. 28 amended by Clergy Pensions (Amendment) Measure 1967 (No. 1), **s. 4(2)**; extended by Clergy Pensions (Amendment) Measure 1967 (No. 1), **s. 4(4)**; amended by Clergy Pensions (Amendment) Measure 1982 (No. 2, 21:5), **s. 2(2)**

## 29 Board to be a housing association.

The Board shall be deemed to be a housing association within the meaning of [F31 section 1(1) of the Housing Associations Act 1985.]

### Textual Amendments

- F31** Words substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 12**

## 30 Power of Board to act as trustee.

- (1) The Board shall have power to accept a transfer of any property (whether real or personal) subject to existing charitable trusts for the benefit of retired clerks or church workers or the widows [F32 widowers] or dependants of deceased clerks or church workers and to administer any such property as trustee thereof.

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- (2) The Board shall also have power to act as custodian trustee, or otherwise to act as trustee for limited purposes only of any property (whether real or personal) subject to charitable trusts for the benefit of retired clerks or church workers or the widows [<sup>F32</sup>widowers] or dependants of deceased clerks or church workers; and subsections (1) and (2) of section four of the <sup>M4</sup>Public Trustee Act 1906 shall apply to the Board in like manner as they apply to the public trustee.

#### Textual Amendments

**F32** Word inserted by [Church of England \(Pensions\) Measure 1988 \(No. 4, SIF 21:5\)](#), ss. 10(3), 18(1), [Sch. 2 para. 13\(a\)](#)

#### Marginal Citations

**M4** 1906 c. 55.

### 31 Board to be a trust corporation.

The Board shall be a trust corporation for the purposes of the <sup>M5</sup>Law of Property Act 1925, the <sup>M6</sup>Settled Land Act 1925, the <sup>M7</sup>Trustee Act 1925, the <sup>M8</sup>Administration of Estates Act 1925 and [<sup>F33</sup>the <sup>M9</sup>Supreme Court Act 1981].

#### Textual Amendments

**F33** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), ss. [17\(2\)\(a\)](#), 22(3)

#### Marginal Citations

**M5** 1925 c. 20.

**M6** 1925 c. 18.

**M7** 1925 c. 19.

**M8** 1925 c. 23.

**M9** 1981 c. 54(37).

### 32 Investment powers of Board.

- [<sup>F34</sup>(1) Without prejudice to section 32A of this Measure, the Board may invest any moneys in their hands and available for investment—
- (a) in any investment falling within Schedule 1 of the Trustee Investments Act 1961;
  - (b) in the acquisition of freehold land in England and Wales or of leasehold land in England and Wales of which the unexpired term at the time of acquisition is not less than sixty years, and
  - (c) in any investment fund or deposit fund constituted under the Church Funds Investment Measure 1958.
- (2) The Board may retain any investment given to them by way of legacy or otherwise notwithstanding that it is not an investment which the Board would have power to acquire under subsection (1) above.]
- (3) Not more than one-half of the property of any fund administered by the Board, as valued at the date of acquisition thereof, may at any time be invested in [<sup>F35</sup>any

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investment falling within Part III of Schedule 1 to the Trustee Investments Act 1961]; and for the purposes of this subsection the value of property at the date of the acquisition thereof means:—

- (a) if the property was acquired by purchase, the purchase price thereof;
- (b) if the property was acquired by gift, *inter vivos*, the value of the property as valued by a person who in the opinion of the Board is qualified to value that property; and
- (c) if the property was acquired under a testamentary disposition, the value thereof for probate purposes.

[<sup>F36</sup>This subsection does not apply to a fund to which section 32A of this Measure applies.]

(4) ..... <sup>F37</sup>

(8) In this section, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

..... <sup>F38</sup>  
“property” includes real or personal property of any description, but does not include any land or building used for the purposes of a home of residence under section twenty-six of this Measure;

..... <sup>F38</sup>  
(9) ..... <sup>F37</sup>

#### Textual Amendments

**F34** S. 32(1)(2) substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 14(a)

**F35** Words substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 14(b)

**F36** Para. inserted by Clergy Pensions (Amendment) Measure 1982 (No. 2, SIF 21:5), s. 4(2)

**F37** S. 32(4)–(7)(9)(10) repealed by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 14(c), 18(2), Sch. 3

**F38** Definitions repealed by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 14(c)

#### [<sup>F39</sup>32A Investment of moneys comprised in certain funds.

- (1) The Board may invest any moneys comprised in a fund to which this section applies and available for investment in the purchase of any investments or property of any sort either real or personal and whether or not being investments or property authorised by the general law for the investment of trust funds, or upon loan upon the security of any property of any description or without security and may also from time to time vary such investments.
- (2) Moneys comprised in a fund to which this section applies which the Board do not think fit immediately to invest may be deposited at any bank.
- (3) In relation to land, whether freehold or leasehold, the Board may exercise all the powers of management of improvement which could be exercised by an absolute owner holding the land beneficially.
- (4) The funds to which this section applies are the Clergy (Widows and Dependants) Pensions Fund established under section 13 of the <sup>M10</sup>Clergy Pensions Measure 1954,

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the Church Workers Pensions Fund established under section 27 of this Measure and any other pensions fund established under a pensions scheme by the Board after the commencement of the <sup>M11</sup>Clergy Pensions (Amendment) Measure 1982, being a fund which is to be administered by the Board.]

#### Textual Amendments

**F39** S. 32A inserted by Clergy Pensions (Amendment) Measure 1982 (No. 2, SIF 21:5), s. 5

#### Marginal Citations

**M10** 1954 No.4.

**M11** 1982 No.2.

### 33 Preservation of restrictions on certain transactions.

The conferment of powers on the Board by this Measure shall not be regarded as giving authority for any transaction to be entered into without the sanction of an Order of the Court or of the Charity Commissioners for England and Wales which would otherwise be required under section twenty-nine of the <sup>M12</sup>Charities Act 1960.

In this section the expression “the Court” has the same meaning as in the said Act.

#### Marginal Citations

**M12** 1960 c. 58.

*Audit of accounts of pensions funds, etc.*

### 34 Audit of accounts of pensions funds, etc .

- (1) The Treasury shall from time to time appoint an auditor to audit the accounts of any fund or trust administered by the Board, [<sup>F40</sup>and also the accounts of any moneys received by the Board from the Commissioners under section 17(2) of this Measure], and the auditor shall be paid such remuneration by the Board and hold office for such period, as the Treasury may direct.
- (2) The auditor so appointed shall audit the said accounts at such times, and make reports to the Church Assembly upon the accounts audited by him in such form, as the Treasury may direct.
- (3) The Board shall present annually to the Church Assembly a report with respect to any such fund or property as aforesaid.
- (4) On the thirty-first day of December, nineteen hundred and sixty-four, and [<sup>F41</sup>thereafter at intervals not exceeding five years], there shall be a valuation of the Clergy (Widows and Dependants) Pensions Fund by an actuary, . . . <sup>F42</sup>

#### Textual Amendments

**F40** Words substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), Sch. 2 para. 14

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- F41** Words substituted by Clergy Pensions (Amendment) Measure 1972 (No. 5), s. 5(3)  
**F42** Words repealed by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 12(b)

## PART IV

### MISCELLANEOUS AND GENERAL

#### Modifications etc. (not altering text)

- C10** Pt. IV (ss. 35–50) extended by Deacons (Ordination of Women) Measure 1986 (No. 4, SIF 21:5), s. 3(1)

**35**— ..... **F43**  
**37.**

#### Textual Amendments

- F43** Ss. 35–37 repealed by S.I. 1988/2256, reg. 36, Sch. 2

### *Miscellaneous*

#### **38 Determination of questions.**

- (1) Subject to the provisions of this Measure, if any question arises:—
- (a) whether any clerk [<sup>F44</sup>deaconess or licensed lay worker] is performing or has performed pensionable service,
  - (b) as to the length of the qualifying period of pensionable service performed by any [<sup>F45</sup>scheme member] or the date on which the qualifying period terminated,
  - (c) whether a [<sup>F45</sup>scheme member] satisfies any other conditions laid down for receipt of a pension under Part I of this Measure or the terms and conditions upon which his pension is granted or agreed to be paid,
  - (d) whether a [<sup>F45</sup>scheme member] has retired or on what date he retired,
  - (e) as to the rate at which a pension is to be paid and whether any deductions are to be made therefrom in respect of arrears of contributions,
  - (f) as to the right of a [<sup>F45</sup>scheme member] to a repayment of any contributions paid by him, or
  - (g) as to the rights of a widow [<sup>F46</sup>widower], child or dependant of a [<sup>F45</sup>scheme member], or of the [<sup>F45</sup>scheme member] himself, under Part II of this Measure (including the question whether any person is a dependant of a [<sup>F45</sup>scheme member]),
- it shall be decided by the Board at a meeting specially convened for that purpose.
- (2) Before giving a decision under this section the Board shall give the [<sup>F45</sup>scheme member] or other person concerned, or his agent, an opportunity of being heard.

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- (3) Any person aggrieved by a decision of the Board under this section, may, within such limits of time and in such manner as may be laid down by Rules of Court, appeal from that decision to the High Court, and the decision of that Court on any such appeal shall be final.
- (4) The <sup>M13</sup> Arbitration Act 1950 shall not apply to any proceedings under this section.

**Textual Amendments**

**F44** Words inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 16(a)**

**F45** Words substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 16(b)**

**F46** Word inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 16(c)**

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**Modifications etc. (not altering text)**

**C11** S. 38 amended by Clergy Pensions (Amendment) Measure 1972 (No. 5, SIF 21:5), **s. 6(3)**

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**Marginal Citations**

**M13** 1950 c. 27.

[<sup>F47</sup>**38A Power of Board to establish additional pensions scheme for clerks.**

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

**Textual Amendments**

**F47** S. 38A inserted by S.I. 1988/2239, **reg. 2**

**39** ..... <sup>F48</sup>

**Textual Amendments**

**F48** S. 39 repealed by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(2), **Sch. 3**

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#### 40 Diocesan widows and dependants committees.

- (1) In every diocese the diocesan board of finance shall appoint a diocesan widows and dependants committee, which may include representatives of charities of which widows [<sup>F49</sup>widowers and dependants of deceased clerks, deaconesses or licensed lay workers] of the diocese are beneficiaries.
- (2) A diocesan widows and dependants committee shall watch over the interests of the widows [<sup>F49</sup>widowers and dependants of deceased clerks, deaconesses or licensed lay workers] of the diocese for which the committee is appointed.
- (3) In every diocese the diocesan board of finance shall appoint an officer or officers whose duty it shall be:—
  - (a) to bring before the diocesan widows and dependants committee information as to the circumstances of widows [<sup>F49</sup>widowers and dependants of deceased clerks, deaconesses or licensed lay workers] of the diocese and to make any proper representations on their behalf to the committee, and
  - (b) to inform those widows [<sup>F50</sup>widowers] and dependants of their rights under this Measure and of any action taken or proposed to be taken by the committee on their behalf.

##### Textual Amendments

**F49** Words substituted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), Sch. 2 para. 17(a)

**F50** Word inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), Sch. 2 para. 17(b)

#### [<sup>F51</sup>40A Payment by Commissioners in respect of accrued rights.

The Commissioners shall have power to pay to the Board out of their general fund such sums as are required by the Board for any payments made by them in respect of accrued rights of former scheme members under regulations made under section 6 of the Clergy Pensions (Amendment) Measure 1972.]

##### Textual Amendments

**F51** S. 40A inserted by S.I. 1988/2256, reg. 34

41— ..... <sup>F52</sup>  
43.

##### Textual Amendments

**F52** Ss. 41–43 repealed by S.I. 1988/2256, reg. 36, Sch. 2

#### 44 Alteration of rates of interest.

Any rate of interest specified in any provision of this Measure, [<sup>F53</sup>or of regulations made under section 6 of the Clergy Pensions (Amendment) Measure 1972], may be

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altered by the Commissioners after consultation with the Board to such other rate as the Commissioners with the advice of an actuary and the approval of the Church Assembly given by resolution may from time to time determine.

**Textual Amendments**

**F53** Words substituted by [S.I. 1988/2256, reg. 34\(2\)](#)

**Modifications etc. (not altering text)**

**C12** [S. 44](#) amended by [Clergy Pensions \(Amendment\) Measure 1972 \(No. 5\), s. 5\(4\)](#)

**45** ..... <sup>F54</sup>

**Textual Amendments**

**F54** [S. 45](#) repealed by [S.I. 1988/2256, reg. 36, Sch. 2](#)

**46 Interpretation.**

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

“actuary” means a Fellow of the Institution of Actuaries or of the Faculty of Actuaries in Scotland employed by the Board for the purposes of this Measure;  
..... <sup>F55</sup>

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

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

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

[<sup>F56</sup>“clerk” means any bishop, priest or deacon of the Church of England;]

“the Commissioners” means the Church Commissioners;

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

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

“ecclesiastical service” means service rendered under the direction of a diocesan bishop or carried on in furtherance of the spiritual or administrative work of the Church of England and recognised as such by a diocesan bishop;  
..... <sup>F57</sup>

[<sup>F58</sup>“licensed lay worker” means a person who has been admitted by a bishop as a lay worker of the Church of England and who has been authorised by a bishop by licence to serve as such a worker, and includes a person who has been so admitted and has been so authorised otherwise than by licence if on the date on which section 1 of the Church of England (Pensions) Measure 1988 comes into force he was a member of the Church Workers Pension Fund]



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

[<sup>F59</sup>“the principal scheme” means the provisions relating to pensions for clerks, deaconesses and licensed lay workers contained in regulations made under section 6 of the Clergy Pensions (Amendment) Measure 1972 and rules made under section 3 of the Clergy Pensions (Amendment) Measure 1967, and known as the Church of England Pensions Scheme;]

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

[<sup>F60</sup>“retiring age” means in the case of a man the age of 65 years or such earlier age as the General Synod may by resolution from time to time determine and in the case of a woman the age of 60 years or such other age as the General Synod may so determine;]

[<sup>F61</sup>“scheme member” means a clerk, deaconess or licensed lay worker, 1] “stipend” includes salary and other emoluments;

.....<sup>F62</sup>

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

#### Textual Amendments

- F55** Definitions repealed by S.I. 1988/2256, reg. 36, **Sch. 2**
- F56** Definition substituted for definitions of “clerk” and “clerk in Holy Orders” by S.I. 1988/2256, **reg. 34(3)(a)** (the definition of “clerk” inserted as provided by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 20(a)**)
- F57** Definition repealed by S.I. 1988/2256, reg. 36, **Sch. 2**
- F58** Definition inserted by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 20(b)**
- F59** Definition inserted by S.I. 1988/2239, **reg. 3**
- F60** Definition substituted by Deacons (Ordination of Women) Measure 1986 (No. 4, SIF 21:5), s. 3(3), **Sch. para. 4**
- F61** Definition inserted as provided by Church of England (Pensions) Measure 1988 (No. 4, SIF 21:5), ss. 10(3), 18(1), **Sch. 2 para. 20(c)** and substituted by S.I. 1988/2256, **reg. 34(3)(b)**
- F62** Definition repealed by S.I. 1988/2256, reg. 36, **Sch. 2**

#### Modifications etc. (not altering text)

- C13** S. 46 amended by Deacons (Ordination of Women) Measure 1986 (No. 4, SIF 21:5), s. 3(2)

## 47 Consequential amendments of Measures

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

#### Modifications etc. (not altering text)

- C14** The text of s. 47 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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## 48 Repeals and consequential savings.

- (1) ..... <sup>F63</sup>
- (2) Any application, claim, payment, agreement, arrangement, determination, order or Rules of Court made, or having effect as if made, direction, decision or notice given, or having effect as if given, or other thing done under any Act or Measure repealed by this Measure shall, if in force immediately before the passing of this Measure, continue in force and be deemed to have been made, given or done under the corresponding provisions of this Measure.
- (3) Where any clerk has before the passing of this Measure performed a period of pensionable service as defined in section twenty-nine of the <sup>M14</sup>Clergy Pensions Measure 1948 as amended by section fifteen of the <sup>M15</sup>Clergy Pensions Measure 1954 that service shall be deemed to be pensionable service for the purposes of this Measure.
- (4) The repeal of any Act or Measure by this Measure shall not affect any pension which has become payable under that Act or Measure before the passing of this Measure and, subject to the provisions of this Measure, any such pension shall continue to be payable in accordance with the provisions repealed by this Measure for the period for which it would have been payable if this Measure had not been passed.
- (5) Any person who immediately before the passing of this Measure is holding any office by virtue of a Measure repealed by this Measure shall continue to hold his office as if he had been appointed or elected to that office under the corresponding provision of this Measure.
- (6) Where a period of time specified in any Measure repealed by this Measure is current at the passing of this Measure, this Measure shall have effect as if the corresponding provision thereof had been in force when that period began to run.
- (7) Any Act, Measure or document referring to any Act or Measure repealed by this Measure shall be construed as referring to the corresponding provision of this Measure.
- (8) The mention of particular matters in this section shall not be taken as affecting the general application of [<sup>F64</sup>sections 16(1) and 17(2)(a) of the <sup>M16</sup>Interpretation Act 1978]with regard to the effect of repeals.

### Textual Amendments

**F63** S. 48(1) repealed by Statute Law (Repeals) Act 1977 (c. 18), Sch. 1 Pt. V

**F64** Words substituted by virtue of Interpretation Act 1978 (c. 30, SIF 115:1), ss. 22(3), 25(2)

### Marginal Citations

**M14** 1948 No. 1.

**M15** 1954 No. 4.

**M16** 1978 c. 30(115:1).

## 49 Extent.

This Measure shall extend to:—

- (a) the whole of the Province of Canterbury with the exception of the Channel Islands;

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- (b) the whole of the Province of York, including the Isle of Man; and
- (c) the collegiate churches of Westminster and Windsor:

Provided that this Measure may be applied to the Channel Islands as defined in the <sup>M17</sup>Channel Islands (Church Legislation) Measures 1931 and <sup>M18</sup>1957 or either of them, in accordance with the provisions of those Measures.

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**Marginal Citations**

**M17** 1931 No. 4.

**M18** 1957 No. 1.

**50 Short title.**

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

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Clergy Pensions Measure 1961.