



## CHAPTER Ivii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to the Churches and Universities (Scotland) Widows' and Orphans' Fund. [25th November 1954]

**W**HEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936 and it is requisite that the said Order should be confirmed by Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation of Order in schedule.

2. This Act may be cited as the Churches and Universities (Scotland) Widows' and Orphans' Fund Order Confirmation Act 1954. Short title.

## SCHEDULE

### CHURCHES AND UNIVERSITIES (SCOTLAND) WIDOWS' AND ORPHANS' FUND

*Provisional Order to reincorporate the Trustees of the Churches and Universities (Scotland) Widows' and Orphans' Fund and to make provision as to the payments to be made to and annuities payable out of the said fund and for other purposes.*

WHEREAS by the Churches and Universities (Scotland) Widows' and Orphans' Fund Order 1930 the former Church of Scotland Ministers' and Scottish University Professors' Widows' Fund and the Free Churches (Scotland) Widows' and Orphans' Fund were amalgamated and trustees were incorporated for the purpose of administering and carrying on the fund so formed and powers were conferred on the trustees incorporated by the said Order of 1930 relative thereto and powers were also conferred on the Church of Scotland General Trustees in regard to vacant stipend:

And whereas it is expedient that further provision should be made as to the annuities and benefits payable to the widows and children of ministers professors and missionaries of the Church of Scotland and the Free Church of Scotland and of professors in the universities of St. Andrews Glasgow Aberdeen and Edinburgh and that the trustees of the Churches and Universities (Scotland) Widows' and Orphans' Fund should be reincorporated and that the provisions contained in the said Order of 1930 with respect to the said trustees and with respect to the said fund should be re-enacted with amendments:

And whereas it is expedient that the provisions contained in the said Order of 1930 with respect to the collection of vacant stipend by the Church of Scotland General Trustees incorporated by the Church of Scotland (General Trustees) Order 1921 and with respect to the payments to be made to the said Fund in satisfaction of claims for vacant stipend should be re-enacted:

And whereas it is expedient that the other provisions contained in this Order should be enacted:

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary of State orders as follows:—

#### PART I

##### PRELIMINARY

Short title.

1. This Order may be cited for all purposes as the Churches and Universities (Scotland) Widows' and Orphans' Fund Order 1954.

Commencement of Order.

2. This Order shall come into operation on the first day of January one thousand nine hundred and fifty-five which date is in this Order referred to as "the commencement of this Order."

3. In this Order unless there is something in the subject or context repugnant to such construction the following words and expressions shall have the meanings hereinafter respectively assigned to them (that is to say):—

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—cont.

Interpretation.

“actuary” includes joint actuaries ;

“admission” in relation to a minister means the date of his induction in relation to a chaplain means the date of his commission and in relation to a missionary or a professor means the date from which his salary begins to run ;

“annuity” means an annuity paid from the Fund ;

“auditor” includes joint auditors ;

“chaplain” means an ordained minister of either of the churches who holds a commission as a chaplain to Her Majesty's regular forces ;

“charge” or “benefice” means the permanent charge in either of the churches of a minister professor or missionary each colleague in a collegiate charge being deemed to hold a separate charge and in the case of a chaplain means a commission to Her Majesty's regular forces In the case of missionaries “charge” shall include an appointment held by a missionary in a definite area or country without parochial limitation ;

“child” means the lawful child of a contributor or other minister professor or missionary whose widow and children are entitled to the benefits of the Fund and includes a legally adopted child ;

“the churches” means the Church of Scotland and the Free Church of Scotland ;

“the Church of Scotland Fund” means the former Church of Scotland Ministers' and Scottish University Professors' Widows' Fund as regulated before Union by the Church of Scotland Ministers' and Scottish University Professors' Widows' Fund Orders 1923 and 1926 ;

“clerk” means the clerk of the Fund for the time being and includes joint clerks ;

“college funds” means the general funds provided by annual contribution or otherwise for the support of the professors holding offices in colleges connected with the Free Church of Scotland ;

“contributor” means a minister or professor who at twelve o'clock noon on the second day of October one thousand nine hundred and twenty-nine was a contributor to the Church of Scotland Fund and includes ministers and professors who having been admitted to a benefice or office during the period between twelve o'clock noon on the twenty-second day of November one thousand nine hundred and twenty-eight and the said second day of October were entitled to the rights and privileges of that fund in terms of the repealed Order ;

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- “equal dividend” “minimum stipend” and “surplus” mean the respective classifications by whatever names they may be known from time to time under which payments may be made from the fund for the maintenance of the ministry or the sustentation fund ;
- “existing” means existing immediately before the commencement of this Order ;
- “existing fund” means the Churches and Universities (Scotland) Widows' and Orphans' Fund as constituted by the repealed Order and as existing immediately before the commencement of this Order ;
- “existing trustees” means the trustees appointed and holding office under the repealed Order immediately before the commencement of this Order ;
- “the Free Churches Fund” means the former Free Churches (Scotland) Widows' and Orphans' Fund incorporated by the Free Church of Scotland Ministers' and Missionaries' Widows' and Orphans' Fund Acts 1851 and 1888 and the Free Churches (Scotland) Widows' and Orphans' Fund Order 1907 ;
- “the Fund” means the Churches and Universities (Scotland) Widows' and Orphans' Fund constituted by this Order ;
- “fund for the maintenance of the ministry” means the fund belonging to or provided by the Church of Scotland for the maintenance of the ministry ;
- “general assemblies” means the respective general assemblies of the churches ;
- “the general trustees” means the Church of Scotland General Trustees incorporated by the Church of Scotland (General Trustees) Order 1921 ;
- “minister” means an ordained minister of either of the churches (not being a woman) who holds a charge in the United Kingdom and includes a chaplain ;
- “missionary” means a person (not being a woman) whose salary is paid in whole or in part out of the moneys under the charge of the mission committees engaged or to be hereafter engaged in the service of either of the churches in a mission charge beyond the United Kingdom of or belonging to or under the administration of either of the churches and shall include (First) a minister serving beyond the United Kingdom whether as a minister or as a missionary (Second) a principal or professor officiating in any college or educational institution beyond the United Kingdom connected with either of the churches (Third) a medical graduate or licentiate who has been set apart by either of the churches for service as a medical missionary beyond the United Kingdom (Fourth) a graduate in arts or science in any university who has been set apart by either of the churches for the service of the churches beyond the United Kingdom and (Fifth) a teacher appointed by either of the churches for service beyond the United

Kingdom who has obtained a certificate of competency from the Scottish Education Department or from any other board to which the duty of granting certificates of competency to teachers in Scotland may hereafter be committed or such other equivalent certificate as may be approved by the Trustees but shall not include any person unless he is a European or an inhabitant of the British Commonwealth or of the United States of America or unless his parents were either Europeans or descended on both sides from Europeans ;

“mission committees” means the committees appointed by the general assemblies and known as the Foreign Mission Committee the Colonial and Continental Committee the Jewish Missions Committee and the Scots Memorial Jerusalem Committee and the Committee on Chaplains to Her Majesty's Forces all of the Church of Scotland and the Foreign Overseas and Jewish Mission Committee of the Free Church of Scotland and shall include any other committees or bodies by whatever name they may be called to which the functions of any of those committees may be transferred by the general assemblies or any new committees of the churches appointed for similar purposes ;

“non-participating congregation” means a congregation of the Church of Scotland the minister of which does not receive any payment by way of stipend from the fund for the maintenance of the ministry or whose payment from the said fund is liable to become less than the payments falling to be made to the Fund with the addition of such sum as may be agreed between the Trustees and the Committee for the maintenance of the ministry of the Church of Scotland and also includes congregations of the Presbytery of England ;

“office” means the office of a professor other than a professor holding a charge ;

“professor” means a principal vice-principal or professor holding office as such in any of the universities or in any college in Scotland connected with either of the churches and in the case of the latter who is admitted to any share of the college funds and shall include a colleague and successor or assistant and successor to a principal or professor but shall not include (a) a woman or (b) a reader or lecturer or a person who after the commencement of this Order is admitted to an office under whatever name in any of the universities for a term of years limited otherwise than by an age limit or to an office of a temporary nature ;

“rates” means the annual rates annual payments entry money marriage taxes and other payments made to the Fund in pursuance of the provisions of this Order ;

“repealed Order” means the Churches and Universities (Scotland) Widows' and Orphans' Fund Order 1930 which is repealed by this Order ;

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“ stipend ” means the whole annual fruits of the benefice whether in the form of stipend proper (exclusive of the glebe as defined under the Glebe Lands (Scotland) Act 1866 but including the income from proceeds of mines quarries or other industrial works on a glebe invested for the benefice) or the income of bequests funds or heritable property where such income is assigned for the permanent endowment of the benefice provided the Fund is not expressly excluded from such income :

“ sustentation fund ” means the general fund provided by the Free Church of Scotland for the support of ministers of the Free Church of Scotland ;

“ treasurer ” means the treasurer of the Fund for the time being and includes joint treasurers and assistant treasurers ;

“ Trustees ” means the Trustees of the Fund ;

“ Union ” means the union of the Church of Scotland and the United Free Church of Scotland both as existing before the second day of October one thousand nine hundred and twenty-nine which took effect under the name of the Church of Scotland on that day ;

“ universities ” means the universities of St. Andrews Glasgow Aberdeen and Edinburgh ;

“ vacant stipend ” means the stipend which accrues during the period of a vacancy in a benefice and which would have vested in the minister had he continued in possession of the benefice according to the law and practice applicable to the benefice for the time being.

PART II

REINCORPORATION OF TRUSTEES AND TRANSFER OF FUND ETC.

Reincorporation  
of Trustees.

4.—(1) As from the commencement of this Order the Fund called the “ Churches and Universities (Scotland) Widows' and Orphans' Fund ” for making provision for the widows and children of the ministers and missionaries of the Church of Scotland and of the Free Church of Scotland and of professors of the universities shall be maintained and administered by twenty Trustees of whom:—

twelve shall be ministers professors or elders of the Church of Scotland ;

four shall be ministers professors or elders of the Free Church of Scotland ; and

four shall be professors of one or other of the universities.

(2) The first Trustees shall be the Trustees of the existing fund holding office under the repealed Order immediately before the commencement of this Order.

Trustees to be a  
body corporate.

5. The Trustees shall be a body corporate by the name of “ The Trustees of the Churches and Universities (Scotland) Widows' and Orphans' Fund ” with perpetual succession and a common seal and may sue and be sued and hold and dispose of the whole property estate and effects heritable and movable real and personal which

belonged to the existing fund or which may hereafter be received acquired or invested under or by virtue of this Order together with all other rights and privileges of a corporate body.

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6. The whole property estate and effects heritable and movable real and personal belonging to the existing fund immediately before the commencement of this Order and held by the existing trustees or by the treasurer of or any other person for and on behalf of the existing fund subject to the debts liabilities contracts and obligations affecting the same shall by virtue of this Order and without any conveyance or transfer other than this Order be transferred to and vested in and shall be held used and disposed of by the Trustees for the purposes of this Order.

Existing fund transferred to Trustees.

7. Any legacy bequest or gift contained in any trust disposition and settlement will codicil or other testamentary writing of any person having died before or dying after the commencement of this Order or in a deed whether executed before or after the commencement of this Order in favour of or directed to be administered by the existing trustees or in connection with the existing fund or any object subsidiary or ancillary to the existing fund shall not fail by reason of anything in this Order but shall as from the commencement of this Order take effect in favour of or be administered by the Trustees.

Legacies etc. not to be affected.

8.—(1) On the thirtieth day of May one thousand nine hundred and fifty-five subject as hereinafter in this section provided—

Rotation of Trustees.

the three senior Trustees ministers professors or elders of the Church of Scotland ;

the senior Trustee a minister professor or elder of the Free Church of Scotland ; and

the senior Trustee a professor of one of the universities ;

shall go out of office ; and

three Trustees being ministers professors or elders of the Church of Scotland shall be appointed by the general assembly of the Church of Scotland at its meeting in May one thousand nine hundred and fifty-five or at such other time as may be fixed for the meeting in that year ;

one Trustee being a minister professor or elder of the Free Church of Scotland shall be appointed by the General Assembly of the Free Church of Scotland at its meeting in May one thousand nine hundred and fifty-five or at such other time as may be fixed for the meeting in that year ; and

one Trustee being a professor of one of the universities shall be appointed by the University Court of the University of Edinburgh not later than the thirtieth day of May one thousand nine hundred and fifty-five ;

in place of those so retiring.

(2) The names of the persons appointed as Trustees in pursuance of the preceding subsection shall be placed at the bottom of the list of Trustees according to their respective representative capacities and on the thirtieth day of May in every year thereafter the three senior Trustees ministers professors or elders of the Church of Scotland

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the senior Trustee a minister professor or elder of the Free Church of Scotland and the senior Trustee a professor of one of the universities shall go out of office and three Trustees ministers professors or elders of the Church of Scotland one Trustee a minister professor or elder of the Free Church of Scotland and one Trustee a professor of one of the universities shall be appointed in the manner aforesaid in their place and the names of the Trustees so appointed shall be placed at the bottom of the list of Trustees in manner before-mentioned.

(3) A Trustee who goes out of office shall be eligible for reappointment.

Vacancies in  
office of  
Trustee.

9.—(1) If a vacancy occurs in the office of Trustee otherwise than by retirement by rotation in accordance with the provisions of the immediately preceding section of this Order a Trustee being a minister or professor or elder of the church of which the Trustee whose office has become vacant was a minister or professor or elder or a professor of one of the universities (if the Trustee whose office has become vacant was such professor) shall be appointed by the Trustees and each Trustee so appointed shall hold office until the thirtieth day of May following his appointment.

(2) (a) The vacancy shall be filled as from the thirtieth day of May following such appointment by the General Assembly of the Church concerned where the vacancy is that of a church representative or (in the case of a professor) by the University Court of the University of Edinburgh in the manner prescribed by subsection (1) of the immediately preceding section of this Order.

(b) The Trustee so appointed shall take the place on the list of Trustees of the Trustee in whose room he is appointed and shall hold office for the unexpired period of office of the said Trustee.

(3) The constitution of the Trustees shall not be impaired and the proceedings of the Trustees shall not be invalidated or subject to challenge in respect only of any vacancy among their number or of any delay or failure in or irregularity in the manner of filling such vacancy.

Appointment  
of chairman  
and meetings  
etc. of Trustees.

10. Subject to the provisions of this Order the provisions of the First Schedule to this Order shall have effect with respect to the appointment of the chairman of the Trustees and with respect to meetings and proceedings of the Trustees.

PART III

APPOINTMENT AND DUTIES OF OFFICERS

Appointment of  
treasurer etc.

11.—(1) Subject to the provisions of this Order the Trustees shall appoint a treasurer or joint treasurers an auditor and an actuary (being a Fellow of the Faculty of Actuaries in Scotland or a Fellow of the Institute of Actuaries) who shall be removable at the pleasure of the Trustees and who shall receive such annual or other allowances for their services as shall be fixed by the Trustees from time to time.

(2) The treasurer shall to the satisfaction of the Trustees find security from an insurance or guarantee company in a sum of not less than five thousand pounds or in the case of joint treasurers or



assistant treasurers in a sum of not less than three thousand pounds each and the premiums of the guarantee bonds shall be paid out of the income of the Fund.

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12.—(1) The treasurer shall be provided by the Trustees with an office and with such assistants as the Trustees may consider necessary whose salaries shall be paid out of the Fund at such rates as the Trustees may determine. Treasurer to be provided with office etc.

(2) The Trustees shall pay out of the Fund such further clerking and other allowances as may be found necessary.

13. The treasurer shall attend all meetings of the Trustees and generally it shall be his duty and he shall have power to receive and discharge the whole income of the Fund and to negotiate and transact under the direction of the Trustees all the ordinary business relating thereto. Duties of treasurer.

14.—(1) The treasurer shall keep regular books open to the inspection of the Trustees and in such form as they shall prescribe containing a full account of his intromissions and a correct record of the statistics of and relating to the Fund and he shall make up accounts of his intromissions annually as at the thirty-first day of December with a list of the arrears (if any) due to the Fund at that date. Accounts.

(2) The said accounts shall be audited by an auditor to be appointed by the Trustees and shall be laid before the Trustees at their first ordinary meeting after completion of the accounts and not later than the twelfth day of May in each year.

(3) The Trustees are hereby empowered to pass the said accounts and to acquit and discharge the treasurer and his sureties from time to time of the sums so accounted for.

(4) The treasurer shall make up annually and lay before the Trustees at the same time as the said accounts are laid before them full lists or schedules showing the particulars of such changes as may have taken place in the statistics relating to ministers professors and missionaries and their widows and families through admissions marriages or otherwise as at the preceding fifteenth day of May.

(5) For the purposes of this section a person shall not be qualified for appointment as auditor by the Trustees unless he is a member of one or more of the following bodies:—

The Institute of Chartered Accountants of Scotland ;

The Institute of Chartered Accountants in England and Wales ;

The Society of Incorporated Accountants ;

The Association of Certified and Corporate Accountants ;

The Institute of Chartered Accountants in Ireland ;

Any other body of accountants established in the United Kingdom and for the time being recognised by the Board of Trade for the purposes of the provisions of section 161 of the Companies Act 1948 relating to the qualification for appointment as auditor of a company other than an exempt private company.

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Returns to be  
made to  
treasurer.

15. In order to enable the treasurer to keep a full and correct record of the statistics of the Fund—

(a) (i) It shall be incumbent on each person holding the office of clerk to any presbytery of either of the churches and the secretary of the university court of each of the universities to report to the treasurer if required by the Trustees and in such form as shall from time to time be prescribed by the Trustees such changes as may occur within the bounds of the presbytery of which he is clerk or in the university of which he is such secretary as the case may be with respect to the induction appointment translation resignation deprivation or death of any minister or professor and any additional particulars required for the information of the Trustees and the secretaries or treasurers of the mission committees shall respectively make similar returns in respect of missionaries and chaplains ;

(ii) The said reports and returns shall be made half-yearly not later than the first day of May and the first day of November respectively bringing down the report of such changes at least to the first day of April and the first day of October immediately preceding ;

(b) (i) Every minister professor and missionary shall within two months after his admission or appointment to a charge or office or within one month after receiving a requisition from the treasurer make a return to the treasurer in such form as from time to time is prescribed by the Trustees accompanied by such certificates as are required by the Trustees stating the following particulars in so far as they apply to his case:—

The date of his ordination and induction or commission or appointment ;

The date of his birth ;

If married the name of his wife and the date of her birth the date of his marriage the name and date of the birth of each child alive the name and dates of the birth and death of each child deceased ;

and any other particulars required ;

(ii) Every minister professor and missionary shall in the month of July in each year make a return to the treasurer in such form as from time to time is prescribed by the Trustees (accompanied by such certificates as are required by the Trustees) of the particulars of any changes which have occurred in the state of his family during the preceding year or certify that no change has taken place.

Penalty for  
failure to  
make returns.

16.—(1) If a minister professor or missionary fails to make any return required by the immediately preceding section of this Order the right of such minister professor or missionary to the payment which would have been due to him at the next time of payment from the fund for the maintenance of the ministry the sustentation fund the funds of the mission committees or the college funds as the case may be shall be liable to be suspended.

(2) The treasurer shall on or before the fifteenth day of October in each year furnish a list of any ministers professors or missionaries who have failed to make any return required by the immediately preceding section of this Order to the secretary or treasurer of the fund for the maintenance of the ministry the sustentation fund or the college funds or the secretaries or treasurers of the mission committees as the case may be.

(3) On receiving such list such secretaries or treasurers may withhold the payment which would otherwise have been due to any such minister professor or missionary respectively or such part thereof as they may think fit until the requisite return has been made by such minister professor or missionary.

17.—(1) Subject to the provisions of this Order the Trustees may appoint a clerk or joint clerks who shall be removable at the pleasure of the Trustees and who shall receive such annual or other allowances for their services as may be fixed by the Trustees from time to time. Trustees to appoint clerk etc.

(2) The Trustees may unite the offices of treasurer and clerk and appoint one person to hold the said two offices and discharge the respective duties thereof.

18. Subject to the provisions of this Order the Trustees may appoint a solicitor to the Fund. Appointment of solicitor.

19. The Trustees may provide out of the Fund such retiring allowances to officials or members of the staff of the Fund as they think fit or if special circumstances should arise may provide out of the Fund compensation for loss of office by any official or member of the staff of the Fund. Power to Trustees to pay retiring allowances.

20. The Trustees shall from time to time name a bank or banks in which the moneys payable to and received on account of the Fund shall be deposited. Moneys to be deposited in bank.

21. The Trustees may if they think fit authorise separate bank accounts to be opened into which the moneys mentioned in the preceding section of this Order may be paid and such bank accounts shall be operated on in such manner as may be directed by the Trustees. Bank accounts.

#### PART IV

##### PAYMENTS TO FUND

22.—(1) An annual sum of seven pounds shall be payable to the Fund at the term of Whitsunday in each year in manner and subject to the exceptions specified in this Order— Annual payments to Fund in respect of ministers professors and missionaries.

(i) out of the fund for the maintenance of the ministry or out of the sustentation fund or out of the funds under the charge of the mission committees—

for or in respect of every minister and missionary who at the commencement of this Order was or is thereafter in receipt of payments from the fund for the maintenance of the ministry (amounting to not less than the annual sum payable to the Fund in terms of this Order with the addition of such sum as may

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be agreed between the Trustees and the committee for the maintenance of the ministry) the sustentation fund or the funds under the charge of the mission committees as the case may be ;

(ii) out of the college funds—

for or in respect of every professor who at the commencement of this Order was or is thereafter admitted to any share of the college funds ;

(iii) out of the funds or moneys belonging to non-participating congregations connected with the Fund in so far as not met from the fund for the maintenance of the ministry—

for or in respect of the respective ministers of such congregations ;

(iv) (a) by every minister inducted to a charge which was a charge in the Church of Scotland before Union until by standardisation of stipend or otherwise he receives payment from the fund for the maintenance of the ministry ;

(b) by every minister who is inducted to a non-participating congregation which has elected not to accept the benefits of the Fund or has forfeited its connection with the Fund owing to non-payment of rates ; and

(c) for or in respect of every chaplain (1) who is commissioned after the commencement of this Order and (2) who at the commencement of this Order being commissioned (and not being entitled to the benefits of the Fund) within six months from the date of the passing of the Act confirming this Order intimates to the treasurer that he desires to obtain the benefits of the Fund ;

(v) by every professor not being a professor admitted to a share of the college funds who at the commencement of this Order has been or is thereafter appointed to an office.

(2) In the case of ministers professors and missionaries admitted after the commencement of this Order the first of the said annual sums shall be paid at the term of Whitsunday next occurring after their admission.

(3) The Trustees may if they think fit from time to time increase the said annual sum of seven pounds in the case of ministers professors and missionaries first admitted after a date determined by the Trustees in their resolution making such increase and the first of such increased annual sums shall be payable at the term of Whitsunday next occurring after the admission of such ministers professors or missionaries.

Provisions  
as to annual  
payments.

23. The following provisions shall apply and have effect with respect to the annual sum payable in accordance with the immediately preceding section of this Order :—

- (1) The said annual sum payable under paragraphs (i) (ii) and (iii) of subsection (1) or under subsection (3) of the said section shall continue to be paid at the term of Whitsunday yearly during the lifetime of each such minister professor or missionary—

(a) out of (1) the fund for the maintenance of the ministry (2) the sustentation fund (3) the funds under the charge of the mission committees (4) the college funds and (5) the funds or moneys belonging to non-participating congregations respectively so long as such minister professor or missionary receives payment from any of the said funds ; or

(b) by such minister professor or missionary himself if such minister professor or missionary ceases to receive payment from the aforesaid funds :

(2) The said annual sum payable under paragraphs (iv) (a) and (b) and (v) of subsection (1) or under subsection (3) of the said section shall continue to be paid at the term of Whitsunday yearly by each such minister during his lifetime until he receives payment from the fund for the maintenance of the ministry when the said annual sum shall be paid in accordance with the provisions of paragraph (1) of this section and by each such professor during his lifetime and the said annual sum payable under paragraph (iv) (c) of subsection (1) or under subsection (3) of the said section shall be paid at the term of Whitsunday yearly by the Committee on Chaplains to Her Majesty's Forces so long as each such chaplain holds a commission and remains on the active list and by each such chaplain himself during his lifetime when he is no longer on the active list unless and until he is inducted to a charge :

(3) Payment shall not be made under the said section in respect of—

(a) a missionary of the Church of Scotland as existing before Union unless or until he is translated to a charge in Great Britain of either of the churches or appointed to an office ; or

(b) a contributor who may come to participate in any of the funds mentioned in paragraphs (i) and (ii) of subsection (1) of the said section and who is himself bound to continue to pay his rates ; or

(c) a minister of a non-participating congregation who failed to uphold the rights and interests of his widow and children in the Free Churches Fund but that only so long as he continues to hold the charge held by him at the commencement of this Order ; or

(d) a minister of a non-participating congregation who did not elect in terms of section 15 of the Free Churches (Scotland) Widows' and Orphans' Fund Order 1907 or in terms of section 14 of the repealed Order to obtain the benefits of the Free Churches Fund for his widow and children and who has not been translated to a charge in respect of which payments have been made for him but that only so long as he continues to hold the charge held by him at the commencement of this Order or until he obtains the benefits of the Fund for his widow and

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children under the section of this Order of which the marginal note is "Individual payments in certain cases"; or

(e) any non-participating congregation which elected not to obtain the benefits of the Free Churches Fund for the widow and children of its minister in terms of section 12 or section 13 of the said Order of 1907 or in terms of section 13 of the repealed Order or having elected to obtain those benefits has subsequently forfeited right thereto until such congregation ceases to be a non-participating congregation by endowment or by making such regular contributions to the fund for the maintenance of the ministry as will entitle the minister of such congregation to full participation therein Provided that if a non-participating congregation as respects any year participates in the minimum stipend fund by reason of an increase in the minimum stipend in that year or for other exceptional cause it shall not be obligatory to regard such congregation as a participating congregation for the purposes of this paragraph until such time as the minister of such congregation may be regarded as being regularly in receipt of payment from the fund for the maintenance of the ministry; or

(f) any minister professor or missionary who in terms of section 22 of the said Order of 1907 was excepted from the benefits of the Free Churches Fund subject to the proviso contained in the last-mentioned section.

Individual  
payments in  
certain cases.

24.—(1) After the commencement of this Order a minister who was admitted to the benefits of the Fund under section 15 of the Free Churches (Scotland) Widows' and Orphans' Fund Order 1907 or section 14 of the repealed Order shall pay to the Fund annually at the term of Whitsunday the sum of seven pounds and any annual payment exceeding seven pounds that may have been fixed by the Trustees in accordance with the provisions of either of the said two Orders shall no longer be due by such minister.

(2) A minister who did not accept the benefits of the Fund under section 14 of the repealed Order and who at the commencement of this Order is in a charge which has forfeited its rights to the benefits of the Fund shall be entitled to obtain the benefits of the Fund for his widow and children by making intimation to the treasurer within six months from the commencement of this Order that he desires to obtain such benefits.

(3) A minister admitted to the benefits of the Fund in terms of the foregoing subsection shall pay to the Fund annually at the term of Whitsunday the sum of seven pounds.

Discontinuance  
of payments.

25. Notwithstanding anything in the section of this Order of which the marginal note is "Provisions as to annual payments"—

(a) a minister professor or missionary who ceases to receive any payment from any of the funds specified in the said section; or

(b) a chaplain who ceases to hold or resigns his commission or is transferred to the Reserve of Officers ; or

(c) a professor ceasing to hold an office ;

shall be entitled at any time if he so elects on giving notice to the treasurer to discontinue to make to the Fund payments of the annual sum made for or in respect of him in accordance with the provisions of this Order before he ceased to receive any payment from any of the funds specified in the said section or before he ceased to hold or resigned his commission or was transferred to the Reserve of Officers or before he ceased to hold an office as the case may be and in that event his widow and children shall not be entitled to the benefits of the Fund.

26.—(1) The general trustees shall continue to collect all vacant stipend and to pay to the fund for the maintenance of the ministry in each year the whole vacant stipend collected by them under deduction therefrom of such commission as may be authorised by the General Assembly of the Church of Scotland in respect of the cost of collection.

Compensation  
for vacant  
stipend.

(2) There shall continue to be paid to the Fund from the fund for the maintenance of the ministry at the terms of Whitsunday and Martinmas in each year half-yearly payments of £1,750 in respect of the forty annual instalments of £3,500 sterling each for which provision was made by the repealed Order the last of the said half-yearly payments being that due and payable at the term of Martinmas one thousand nine hundred and sixty-nine but that without interest being chargeable upon any of the said instalments except interest at the rate of five per centum per annum from the expiry of three months from the due term until payment.

(3) (a) The said annual instalments shall continue to be a prior charge on the fund for the maintenance of the ministry ranking next and immediately postponed to the expenses of management of that fund.

(b) The said annual instalments when fully paid shall be in full discharge and satisfaction to the Fund of all claims by the Fund for vacant stipend accruing after the second day of October one thousand nine hundred and twenty-nine.

(4) In respect of the obligation hereby imposed upon the general trustees as to the collection of vacant stipend and the payment thereof to the fund for the maintenance of the ministry the general trustees are freed and relieved of and from all liability or claims for vacant stipend at the instance of the Fund.

27. There shall be payable to the Fund as at the term of Whitsunday in each year after the commencement of this Order:—

Payments to  
Fund in  
respect of  
vacant charges.

(a) out of the fund for the maintenance of the ministry the sustentation fund and the funds of the mission committees in respect of each and every charge in the churches which is vacant at the said term by the death translation resignation or deprivation of any minister or missionary or from any other cause :

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- (b) out of the college funds in respect of every charge of a professor who was admitted to any share of the college funds which happens to be vacant at the said term by the death translation resignation or deprivation of any such professor or from any other cause :
- (c) out of the funds or moneys of the respective non-participating congregations in respect of every charge represented by any such congregation which is vacant at the said term by the death translation resignation or deprivation of the minister of such congregation or from any other cause in so far as not met from the fund for the maintenance of the ministry ;

the sum of seven pounds or if a higher annual sum was paid for or in respect of the minister professor or missionary holding the charge immediately before the vacancy occurred such higher sum :

Provided as follows :—

- (i) that when and as often as a charge becomes vacant by the death translation resignation or deprivation of any minister professor or missionary who was not a contributor or whose widow and children are not or would not have been entitled to the benefits of the Fund or are entitled to the benefits of the Fund only by reason of such minister professor or missionary having obtained the benefits of the Fund in terms of section 15 of the Free Churches (Scotland) Widows' and Orphans' Fund Order 1907 or of section 14 of the repealed Order payment shall not in that event be made on account of such charge while so vacant ;
- (ii) that payment shall not be made in respect of any vacant charge on the death translation resignation or deprivation of a colleague and successor or assistant and successor ; and
- (iii) that payment shall not be made in respect of any vacant charge after the date on which such charge is formally suppressed as a charge or combined and incorporated with another charge by or under the authority of the General Assembly of the Church of Scotland or in respect of any charge which has been temporarily linked or united with some other charge.

Change of  
missionaries  
to be notified.

28. Intimation shall be made by the mission committees to the treasurer of any missionary appointed to any charge after the commencement of this Order within six months after his appointment and on the death translation resignation or deprivation of any missionary holding a charge recognised and maintained by either of the churches a vacant charge shall be held to exist and payment shall be made in respect of such vacant charge until a successor to such missionary has been appointed or until the vacant charge is suppressed by or under authority of the general assembly of the church which made the appointment.



29.—(1) The sums hereinafter in this section mentioned shall be payable to the Fund—

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(a) out of the fund for the maintenance of the ministry the sustentation fund and the funds of the mission committees for or in respect of every minister or missionary who receives payment therefrom ;

Entry money  
and marriage  
tax.

(b) out of the college funds for or in respect of every professor who receives payment therefrom ;

(c) out of the funds or moneys of the respective non-participating congregations ;

(d) (i) by every minister who after the commencement of this Order is admitted to a charge which was a charge in the Church of Scotland before Union and who is not (by standardisation of stipend or otherwise) receiving payment from the fund for the maintenance of the ministry ;

(ii) by every minister who is after the commencement of this Order admitted to a non-participating congregation which has elected not to accept the benefits of the Fund or which has forfeited its connection with the Fund owing to non-payment of rates ; and

(iii) by the Committee on Chaplains to Her Majesty's Forces for or in respect of every chaplain who is commissioned after the commencement of this Order or who at the commencement of this Order being commissioned (and not being entitled to the benefits of the Fund) has intimated to the treasurer his desire to obtain the benefits of the Fund ;

(e) by every professor not being a professor admitted to a share of the college funds who has been appointed to the office of professor in any of the universities after the commencement of this Order.

(2) The sums hereinbefore in this section referred to are as follows :—

(a) (i) For or in respect of every minister professor or missionary who after the commencement of this Order is admitted to a charge or office for the first time or who having forfeited the rights and interests of his widow and children in the Fund has been or is again admitted to a charge or office or who being commissioned as a chaplain at the commencement of this Order (and not being entitled to the benefits of the Fund) has intimated to the treasurer his desire to obtain the benefits of the Fund—

if such minister professor or missionary is at the date of his admission or his intimation of his desire to obtain the benefits of the Fund—

not more than thirty-five years of age—£10 ;

more than thirty-five but not more than forty-five years of age—£15 ;

more than forty-five but not more than fifty-five years of age—£20 ;

more than fifty-five years of age—£30 ;

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(ii) The said sums shall be payable in two equal instalments where the sum to be paid amounts to £10 £15 or £20 and in three equal instalments where the sum to be paid amounts to £30 the first instalment being payable at the first term of Whitsunday after the date of admission or intimation and the remaining instalments at the succeeding terms of Whitsunday after the said date. Provided that if any such minister professor or missionary does not survive the second or third term of Whitsunday the second or third instalment as the case may be shall not be exigible and that if any such minister professor or missionary ceases before the second term of Whitsunday to be entitled to payment from any of the said funds or to be commissioned as a chaplain the second and third instalments shall not be payable therefrom but shall be due and payable by such minister professor or missionary himself ;

(b) (i) For or in respect of every minister professor or missionary who being admitted to a charge or office after the commencement of this Order or who being commissioned as a chaplain at the commencement of this Order (and not being entitled to the benefits of the Fund) has intimated to the treasurer his desire to obtain the benefits of the Fund marries or is married at the time of his admission or intimation—

for his marriage and every subsequent marriage the sum of £5 together with a sum of £1 for every complete year by which his age exceeds the age of his wife ;

(ii) The said sums shall be payable at the first term of Martinmas occurring after three months from the date of his marriage or the date of his admission or intimation if then married as the case may be :

Provided that if such minister professor or missionary (not being a contributor) marries a widow who at the time of her marriage to him is in receipt of an annuity payable from the Fund payment shall not be made to the Fund in respect of such marriage.

(3) Payment of entry money or marriage tax shall not be made under this section in respect of—

(a) a minister of the Church of Scotland who was a member of the Presbytery of England before Union ; or

(b) a missionary of the Church of Scotland as existing before Union ;

unless or until in the case of a minister he is admitted to another charge or to an office or in the case of a missionary he is admitted to a charge in Great Britain or admitted to an office (which in each case shall be treated as admission for the first time for the purposes of this section) or unless or until in either case he obtains the benefits of the Fund for his widow and children under the provisions of this Order ; or

(c) a contributor who is himself bound to make payment of marriage tax ; or

- (d) a minister of a non-participating congregation who has failed to uphold the rights and interests of his widow and children in the Free Churches Fund in terms of the Free Churches (Scotland) Widows' and Orphans' Fund Order 1907 but that only so long as he continues to hold the charge held by him at the commencement of this Order ; or
- (e) a minister of a non-participating congregation who did not elect in terms of section 15 of the said Order of 1907 or of section 14 of the repealed Order to obtain the benefits of the Free Churches Fund for his widow and children and who was not before the commencement of this Order admitted to a charge in respect of which payments were made for him in terms of the said Order of 1907 or of the repealed Order but that only so long as he continues to hold the charge held by him at the said date.

30.—(1) It shall be in the power of any non-participating congregation which has not had an opportunity under the repealed Order of electing to obtain the benefits of the Fund to make intimation to the treasurer within twelve months after the death translation resignation or deprivation of the minister holding the charge at the commencement of this Order that such congregation does not desire the benefits of the Fund and the congregation shall ipso facto and without any resolution of the Trustees not have any right or interest in the Fund so long as it remains a non-participating congregation.

Provisions as to non-participating congregations securing benefits of Fund.

(2) When a vacancy occurs in any non-participating congregation which has forfeited its rights to the benefits of the Fund such congregation may if it so desires obtain the benefits of the Fund by deciding to make such regular contributions to the fund for the maintenance of the ministry as will entitle the minister appointed to such congregation to receive payment from the said fund.

31. The Trustees may if they think fit allow any minister professor or missionary entitled under this Order to obtain the benefits of the Fund for his widow and children to commute the ordinary annual payments for which provision is made in this Order by the payment of a single sum or by annual payments to cease on his attaining a specified age according to tables which may from time to time be framed by the Trustees on the advice of the actuary.

Commutation of payments.

32. If a minister professor or missionary (not being a contributor) fails from whatever cause at two successive terms to pay to the Fund his annual payment or fails to pay any entry money or marriage tax within eighteen months after the same or the instalments thereof fall due or fails in any other respect to comply with the provisions of this Order the Trustees may remove his name from the list of those who are entitled to the benefits of the Fund in which case his widow and children shall forfeit all rights and interests in the Fund.

Power to remove from Fund for failure to make payment.

33.—(1) Notwithstanding anything in this Order the Trustees may in their sole discretion allow any minister professor or missionary to uphold and continue the rights and interests of his widow and children in the Fund by making payment to the treasurer of the annual payments entry money or marriage tax or any instalments thereof which may be in arrear with interest thereon as if failure in payment had not occurred.

Discretion of Trustees in regard to arrears.

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(2) The Trustees shall have power to cancel any rates or other payments due to the Fund which they may consider to be irrecoverable.

Rates etc. to be privileged debts.

34. The rates annual payments entry money and marriage tax payable by contributors and by or on behalf of all other ministers professors and missionaries (except so far as met from the fund for the maintenance of the ministry the funds of the mission committees the college funds or the funds of non-participating congregations) together with the interest thereon shall be privileged debts and preferable to all other debts except imperial taxes and local rates of the contributors and others not only upon their benefices and salaries respectively but also upon their whole other personal estate.

Payments to be made free of expense.

35. All payments due to the Fund in accordance with the provisions of this Order shall be made to the treasurer free of expense.

Provisions as to payments by contributors.

36. The provisions contained in the Second Schedule to this Order (relating to payments by contributors) shall apply and have effect.

PART V

PAYMENTS OUT OF FUND

Payment of expenses and provisions for widows and children.

37.—(1) There shall be paid out of the Fund—

In the first place the expenses incurred in the management and administration of the Fund; and

In the second place the annuities and provisions hereinafter set forth all ranking *pari passu videlicet*:—

(a) The annuities to widows of contributors and benefits to children of contributors set forth in the Third Schedule to this Order;

(b) The annuities payable to such widows and children as at the commencement of this Order were entitled to the benefits of the Fund under the Free Churches (Scotland) Widows' and Orphans' Fund Order 1907 or the repealed Order as such annuities may be increased or diminished in terms of this Order;

(c) An annuity at the current rate to the widows and to each of the children under eighteen years of age of the following ministers professors and missionaries who die after the commencement of this Order:—

(i) every minister professor or missionary who before the second day of October one thousand nine hundred and twenty-nine ceased to have any share of the central fund the funds of the mission committees the college funds all of the United Free Church of Scotland or the sustentation fund the funds of the mission committee and the college fund all of the Free Church of Scotland;

(ii) every minister professor or missionary (not being a contributor) now or hereafter holding a charge or

office who has received or hereafter receives any payment from the fund for the maintenance of the ministry the sustentation fund the funds of the mission committees or the college funds respectively and every such minister professor or missionary now or hereafter emeritus ;

(iii) every minister and minister emeritus (not being a contributor) of a non-participating congregation entitled to the benefits of the Fund for the widow and children of its minister ;

(iv) every minister (not being a contributor) now or hereafter holding a charge which was a charge of the Church of Scotland before Union and who dies before standardisation of stipend takes place ;

(v) every minister who being commissioned as a chaplain at the commencement of this Order (and not being entitled to the benefits of the Fund) intimated to the treasurer his desire to obtain and became entitled to the benefits of the Fund ;

(vi) every professor (not being a contributor) now or hereafter holding an office in the universities :

Provided that such minister professor or missionary has not forfeited the rights and interests of his widow and children.

(2) For the purposes of this section "annuity at the current rate" in relation to an annuity to a widow or child means an annuity of the amount specified in the repealed Order with respect to widows and children respectively as increased or diminished from time to time by the Trustees under the powers conferred on them by this Order.

38.—(1) Annuities and benefits to widows and children of contributors under paragraph (a) of the immediately preceding section of this Order shall be payable in equal half-yearly portions in accordance with the conditions applicable to them respectively set forth in the Second and Third Schedules to this Order. Conditions as to payment of annuities.

(2) The following provisions shall have effect with respect to annuities under paragraphs (b) and (c) of subsection (1) of the immediately preceding section of this Order (that is to say):—

(a) The annuities shall be payable in equal half-yearly portions at the terms of Whitsunday and Martinmas and the first of such half-yearly portions shall be due and payable at the term of Whitsunday or Martinmas following the date of the death of the husband or father and shall cease in the case of a widow at the term of payment immediately preceding death or remarriage and in the case of children at the term of payment immediately preceding the date at which each child attains the age of eighteen years or dies before attaining that age ;

(b) If a widow or child dies on a date for making payment of one of such portions or a child attains the age of eighteen

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years on any such date the amount due on that date shall be paid to the representatives of such widow or to the mother or other guardian of such child ;

- (c) If a minister professor or missionary dies on a date for making payment of one of such portions the first of such portions shall be payable to the widow and children as at the date of his death ;
- (d) If a widow marries she shall thereby lose all right to any annuity from the Fund after the last date on which one of such portions was payable immediately preceding her remarriage unless and until she again becomes entitled to an annuity as the widow of another minister professor or missionary ;
- (e) A child shall be entitled to his annuity although the widow of his father enters into a second or any subsequent marriage.

(3) Whatever amount may be fixed from time to time under this Order as the amount of the annuity payable to a widow under paragraphs (b) or (c) of subsection (1) of the immediately preceding section of this Order the annuity payable to a child under either of those paragraphs during the lifetime of the widow of his father shall always be equal to fifty per centum of that amount and the increased annuity payable to a child after the death of the widow of his father shall always be equal to seventy-five per centum of that amount.

(4) The annuities shall be subject at all times to deduction of any arrears of annual payments entry money and marriage tax with interest thereon provided that the non-payment thereof has not inferred forfeiture in accordance with the provisions of this Order.

Rule for  
increase or  
diminution.

39.—(1) In the event of increase in the annuities resulting from future actuarial investigations the capital sum to be utilised for such increase shall in the first place be divided into two portions proportionate respectively to the gross actuarial values at the date of the relative actuarial investigation of the annuities and other payments to widows and children which have arisen or which may arise in respect of (a) annuities and provisions to widows and children of contributors and (b) annuities to widows and children of all other ministers professors and missionaries entitled to the benefits of the Fund In the event of the annuities being at any time diminished the estimated capital deficiency shall be divided in similar proportions.

(2) The portion applicable to the widows and children of contributors shall be dealt with as provided in the Fourth Schedule to this Order and the portion applicable to the widows and children of other ministers professors and missionaries entitled to the benefits of the Fund shall be applied in increase or diminution of the annuities provided in paragraphs (b) and (c) of the section of this Order of which the marginal note is " Payment of expenses and provisions for widows and children " :

Provided that an increase shall not be made in the provisions for children of contributors specified in paragraphs 1 and 2 of Part II of the Third Schedule to this Order.

40. On receiving from the actuary a report of any periodical or interim investigation or an interim report on the affairs of the Fund undertaken in accordance with the provisions of this Order the Trustees shall forthwith cause the actuary's report to be printed and a copy thereof shall be sent by post to each of the Trustees with a notice calling a special meeting of the Trustees to be held at such place as the chairman may appoint on a day not less than two weeks and not more than four weeks after the date of such notice for the purpose of considering the said report and the Trustees present at such meeting or at any adjourned special meeting may (without prejudice to the powers conferred on them by the section of this Order of which the marginal note is "Power to make temporary annual payments to annuitants") increase or diminish the rates of annuity according to the recommendation of the actuary or do otherwise as may appear to them advisable in the circumstances.

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Alteration of annuities.

41. In the event of any alteration being made as provided in the immediately preceding section of this Order of the amount of the annuities by this Order directed to be paid the altered annuities shall commence as from the twenty-sixth day of May or the twenty-second day of November as regards annuities to widows and children of contributors and as regards the other annuities as from the term of Whitsunday or Martinmas which shall first happen after the amount thereof has been so altered and shall continue payable until again altered after any subsequent periodical or interim actuarial investigation.

Payment of altered annuities.

42.—(1) The annuities payable to widows and children in accordance with the provisions of this Order and any sums paid by way of temporary annual additions in pursuance of the section of this Order of which the marginal note is "Power to make temporary annual payments to annuitants" are hereby declared to be alimentary and such annuities and sums shall not be affectable by their debts or deeds nor subject to arrestment or other legal diligence at the instance of their creditors but shall be paid only to the widows and the guardians tutors or curators of the children respectively entitled thereto.

Annuities to be alimentary.

(2) If a widow is under any legal or natural disability and is unable to grant a discharge of the annuity payable to her or if a child has not a guardian tutor or curator the Trustees may name a person as trustee to manage and apply such annuities and sums in such manner as appears to such person to be most for the benefit of such widow or child and the person so appointed may receive and discharge such annuities and sums and shall if and when required by the Trustees be bound to render to the treasurer annually an account of the application thereof until he is relieved of or superseded in the said trust which the Trustees shall have power to do at pleasure.

43. The annuities payable in accordance with the provisions of this Order to the widows and children of ministers professors and missionaries shall in all cases represent and shall not in any case be

Annuities not to be cumulative.

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additional to the annuities payable to the said widows and children from the Church of Scotland Fund and the Free Churches Fund respectively.

Power to make temporary annual payments to annuitants.

44.—(1) The Trustees may at any time they think fit require the actuary to make an interim report on the affairs of the Fund.

(2) If it appears to the Trustees from any such interim report or from the report of any periodical or interim actuarial investigation undertaken in accordance with the provisions of this Order or on the actuary certifying that the affairs of the Fund are such as to justify a temporary annual addition being made to the annuities and family provisions payable in accordance with the provisions of this Order they may make provision for the payment of and may pay out of the Fund such temporary annual addition to the annuities and family provisions as they may consider justified having regard to the affairs of the Fund as disclosed by any such interim report or by any such actuarial investigation or having regard to the terms of any certificate given by the actuary:

Provided that the total amount distributed in any year by way of temporary annual additions under the provisions of this section shall be divided amongst all the annuitants and all the children in respect of whom family provisions are made in proportion to the amounts of their annuities and family provisions.

(3) Temporary annual additions (if any) paid out of the Fund under the powers of this section shall be separate from and shall not form part of the annuities and family provisions and shall be subject to review at any time by the Trustees.

PART VI

ACTUARIAL INVESTIGATION

Periodical investigations by actuary.

45.—(1) The affairs of the Fund shall be investigated periodically by an actuary to be appointed by the Trustees for the purpose of ascertaining whether the sums accumulated at the time with the value of the expected future payments to the Fund are sufficient or more or less than sufficient for the payment of the annuities and the provisions for children charged upon the Fund and such annuities and provisions as may be expected to become chargeable thereon at the amounts specified in or fixed under the provisions of this Order together with the necessary expenses of management.

(2) Unless in the opinion of the Trustees it is desirable to make an earlier investigation of the affairs of the Fund the first such investigation shall be made as at the fifteenth day of May in the year one thousand nine hundred and fifty-nine and every succeeding investigation shall be made as at the fifteenth day of May not sooner than five nor later than ten years from the date of the immediately preceding investigation unless circumstances arise which in the opinion of the Trustees render it desirable to make an earlier investigation in which case they shall have power to direct an investigation to be made within an earlier period than five years.



PART VII

MISCELLANEOUS

46. The Trustees may invest the moneys of the Fund from time Powers of  
to time in or upon all or any of the following investments securities investment.  
and obligations (namely):—

- (1) Investments in which trustees are authorised to invest trust funds according to the law of Scotland or the law of England for the time being ;
- (2) In the purchase of heritable property in Scotland to be used for any purpose in connection with the carrying out of the purposes and objects of the Fund or in any way connected therewith ;
- (3) In or upon the public stocks or funds or Government securities of the United Kingdom or any part of Her Majesty's dominions or of the territories under Her protection or the United States of America ;
- (4) In or upon the deposit receipts bonds debentures debenture stock mortgages or securities of any corporation company or body whether municipal railway public-utility commercial industrial investment trust mortgage insurance banking or otherwise registered or incorporated in the United Kingdom or any part of Her Majesty's dominions or of the territories under Her protection or the United States of America or in or upon the guaranteed lien preference or preferred or ordinary or deferred or common stocks or shares of any such corporation company or body or upon any securities whatsoever issued or guaranteed by any such corporation company or body and in the case of banks and insurance companies whether or not there is liability for calls or other payments :

Provided that the Trustees may retain and hold any heritable properties investments or securities which may be transferred to them under any of the provisions of this Order notwithstanding that such properties investments or securities may not be of the nature authorised by any of the provisions of this section.

47. The Trustees may from time to time make such byelaws and regulations as may be found expedient for the discharge of their duties under this Order and for managing and administering the Fund Power to make byelaws.  
Provided that such byelaws and regulations shall not be repugnant to the law of Scotland or to the true intent and meaning of this Order and that all such byelaws and regulations shall be approved by at least three-fourths of the Trustees present at a meeting called for the purpose.

48. The Trustees may if they think fit alter at any time—

Power to alter dates.

- (a) the date of retiral of the Trustees in each year ;
- (b) the date at which the annual accounts shall be made up ;
- (c) the dates of their ordinary meetings ;
- (d) the date at which statistics are to be made up ;

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- (e) the dates of returns to be made to the treasurer ;
- (f) the dates of any payments to be made to or out of the Fund in pursuance of this Order ; and
- (g) any other dates depending on such alterations :

Provided that the accounts shall be made up annually and statistics shall be prepared and returns made annually.

Execution of  
deeds and other  
documents.

49. All deeds and other writings required to be executed on behalf of the Fund shall be sufficiently executed by being signed by two of the Trustees and by the treasurer or the clerk or other person authorised by the Trustees to sign the same and shall be equally binding whether attested by witnesses or not and whether executed under seal or not. Provided that receipts notices and other similar writings requiring execution or authentication on behalf of the Fund shall be valid and effectual if signed by the treasurer or the clerk or other person authorised by the Trustees.

Rate of interest  
on rates in  
arrear.

50. Interest at the rate of five pounds per centum per annum shall be payable on all arrears of rates.

Evidence of  
sums due to  
Fund.

51. In any proceedings suit action or diligence for recovery of rates or other sums due and payable to the Fund a statement of the amount due and interest thereon certified by the treasurer shall be sufficient evidence that the sums therein contained are justly due and payable unless such statement is proved by written evidence to be erroneous.

Recovery of  
expenses.

52. The full expenses incurred by the Trustees in recovering payment of any sum payable to the Fund under this Order from the debtor therein or out of his effects shall be recovered out of the assets of the debtor and if not so recovered shall be a charge against the Fund.

Reports to  
general  
assemblies etc.

53.—(1) The Trustees shall prepare and through the chairman or failing the chairman through any one of the Trustees or through the treasurer or clerk lay before the general assemblies at their annual meetings and also annually before the university court of each of the universities a report on the state and progress of the Fund showing generally how the moneys therein are invested.

(2) The said report along with such lists or abstracts as may be necessary to explain the same shall at the same time be printed for circulation and copies thereof shall be furnished by the treasurer free of any charge to ministers professors and missionaries applying to the treasurer for the same.

Immunity of  
Trustees.

54. The Trustees shall not be liable for omissions or for acts done by them bona fide in the execution of their duties under this Order or for the solvency of the persons to whom moneys shall be lent out or of the banks in which moneys shall be deposited or for the sufficiency of securities and investments or in solidum but each only for his own actual intromissions and the Trustees shall be paid and indemnified out of the Fund for all necessary expenses including travelling expenses to which they may be put in the execution of their office.

55. The existing trustees and their predecessors and the existing clerk and the existing treasurer and all other persons holding office in pursuance of the repealed Order and the heirs executors and representatives of any of them who have predeceased or may predecease the confirming of this Order are hereby exonerated acquitted and simpliciter discharged of their whole actings transactions intrusions and management in any way and in whatever capacities in consequence of or arising out of their appointments to the aforesaid offices or otherwise and of all omissions which can or could be laid to their charge and of all claims and demands whatsoever which may be made against the existing fund or the existing trustees.

PART VII  
—cont.

Discharge of trustees and officials.

56. All agreements contracts conveyances deeds and other instruments affecting the existing trustees or their predecessors and existing at the commencement of this Order shall except as otherwise provided in this Order be binding on and of as full force and effect against or in favour of the Trustees and may be enforced as fully and effectually as if the Trustees had been parties thereto instead of the existing trustees or their predecessors as the case may be.

Contracts binding on Trustees.

57. All books and documents which would be evidence in respect of any matter for or against the existing trustees or their predecessors and existing at the commencement of this Order shall be admitted in evidence in respect of the same and the like matter for or against the Trustees.

Books etc. to remain evidence.

58. The treasurer the clerk and the solicitor of the existing fund and all other persons who immediately before the commencement of this Order were members of the staff of the existing fund shall as from the commencement of this Order continue to hold under the Fund the same offices and employments and shall hold them on the same terms and conditions as applied to their respective offices and employments immediately before the commencement of this Order.

Continuance of office bearers etc.

59. Save as expressly provided in this Order nothing in this Order shall limit the liabilities or prejudice the rights and privileges of—

Safeguarding of rights and liabilities.

- (1) Contributors or the widows and children of contributors in accordance with the provisions set forth in the Second and Third Schedules to this Order ; or
- (2) Any minister professor or missionary to whom the provisions of subsections (1) and (3) of section 11 or the provisions of section 20 of the Free Churches (Scotland) Widows' and Orphans' Fund Order 1907 applied immediately before the commencement of this Order ; or
- (3) Any minister professor or missionary of the United Free Church of Scotland or the Free Church of Scotland who has obtained the benefits of the Free Churches Fund for his widow and children in terms of section 15 of the said Order of 1907 or of section 14 of the repealed Order.

60. As from the commencement of this Order the Churches and Universities (Scotland) Widows' and Orphans' Fund Order 1930 shall be and is hereby repealed.

Repeal of Order of 1930.

61. All costs charges and expenses preliminary to and of and incidental to the preparing for obtaining and confirming of this Order or otherwise in relation thereto shall be paid out of the Fund.

Costs of Order.

FIRST SCHEDULE

(Referred to in the section of this Order of which the marginal note is "Appointment of chairman and meetings etc. of Trustees")

Appointment of  
Chairman.

1.—(1) At the first meeting of the Trustees held after the commencement of this Order (which shall be called by the clerk) the Trustees shall appoint one of their number as chairman of the Trustees to hold office until the first meeting of the Trustees after the meetings of the general assemblies of the churches in the year one thousand nine hundred and fifty-five and at the said last-mentioned meeting of the Trustees the Trustees shall appoint one of their number as chairman of the Trustees to hold office until the first meeting of the Trustees after the meetings of the said general assemblies in the year one thousand nine hundred and fifty-six and so forth in every year thereafter.

(2) In the event of the death incapacity or retiral of the chairman during the period of his office as chairman the Trustees shall elect another of their number as chairman for the remainder of the said period.

Meetings of  
Trustees.

2.—(1) (a) The Trustees shall hold at least two ordinary meetings in every year on dates to be fixed by the Trustees and may hold other meetings as and when required.

(b) Any four Trustees by a request in writing addressed to the clerk or treasurer shall be entitled to require a meeting of Trustees to be called.

(c) The first meeting of the Trustees shall be held not later than the month of December following the commencement of this Order.

(2) Notice of every meeting which shall specify the general nature of the business shall be sent by post to each Trustee by the clerk or treasurer not less than seven days before the day of the meeting.

(3) Questions at any meeting shall be determined by a majority of votes of the Trustees present and in case of an equal division of votes the chairman shall in addition to his deliberative vote have a casting vote.

(4) Any meeting may be adjourned from time to time but the only business to be transacted at any adjourned meeting shall be the business left unfinished at the meeting from which such adjournment took place.

(5) At all meetings the chairman or in his absence any Trustee elected by the meeting shall preside and five of the Trustees for the time being shall form a quorum and if a quorum is not present the Trustees present shall have power to adjourn the meeting.

Appointment of  
committees.

3.—(1) The Trustees may appoint one or more committees consisting of such of their number as they think fit.

(2) (a) A committee may elect a chairman of their meeting.

(b) If such chairman is not elected or if he is not present at the time appointed for holding the meeting the members present may choose one of their number to be chairman of such meeting.

(c) A committee may meet and adjourn as they think proper.

4. Minutes shall be made in books to be kept for the purpose of all proceedings and resolutions of all meetings of the Trustees and of any committee appointed by the Trustees and such minutes if signed by the chairman of the meeting or by the chairman of the next meeting shall be evidence of the facts therein stated without further proof. 1st SCH.  
—cont.  
Minutes.

5. (a) The Trustees shall provide for the safe custody of the seal. Custody of seal  
and execution  
of deeds.  
(b) The seal shall not be used except by authority of the Trustees and only for the sealing of deeds and such writings of a formal nature as the Trustees resolve should be sealed.

(c) Such authority shall be recorded in a book kept for the purpose and authenticated by the Trustees who sign the document so sealed.

## SECOND SCHEDULE

(Referred to in the sections of this Order of which the marginal notes are "Provisions as to payments by contributors" "Conditions as to payment of annuities" and "Safeguarding of rights and liabilities")

1. Every contributor who on the second day of October one thousand nine hundred and twenty-nine was subject and liable to one of the annual rates following videlicet three pounds three shillings four pounds fourteen shillings and sixpence six pounds six shillings and seven pounds seventeen shillings and sixpence shall in the manner hereinafter directed continue to pay the same yearly at each term of Candlemas during his life notwithstanding that he may have ceased or shall hereafter cease to be a minister or professor by resignation deprivation or any other manner of way subject to the following exceptions:—

(a) If any contributor resides permanently furth of the United Kingdom having resigned his benefice or office and gives a declaration to that effect it shall be in his option within three years from the 22nd day of November of the year in which such residence has been constituted to intimate to the Trustees in writing his intention to cease to be a contributor in which event his name shall be removed from the list of contributors as at the date of the said declaration and any rights he or his dependants may have in the Fund shall thereupon cease and determine but repayment shall not be made to him of the rates paid by him and he shall make payment of any rates for which he became liable before the date of the said declaration;

(b) If any contributor resident furth of the United Kingdom at any time leaves his rates unpaid for a period of three years before the 22nd day of November in any year his name shall be removed from the list of contributors as at the expiry of such period and any rights he or his dependants may have in the Fund shall thereupon cease and determine and repayment shall not be made to him of the rates paid by him;

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2ND SCH.  
—cont.

(c) If any contributor resident furth of the United Kingdom was at the commencement of the repealed Order in arrear of payment of rates as at 14th October 1924 and the arrears due by him were cancelled and his name removed from the list of contributors the annuity payable to the widow of such contributor if on the Fund at the commencement of the repealed Order the payment of which had been suspended and applied towards liquidation of her husband's arrears of rates shall continue to be so suspended and applied so far as it may be required to clear the arrears with interest and if and when so cleared the annuity shall thereafter be payable to such widow.

2. Every contributor liable to pay one year's rate annually in pursuance of paragraph 2 of the Second Schedule to the repealed Order shall continue to make payment of a full year's rate at the term of Candlemas in each year during his life notwithstanding that he ceases to be a minister or a professor by resignation deprivation or any other manner of way subject to the exceptions in regard to contributors who may reside furth of the United Kingdom contained in paragraph 1 sub-paragraphs (a) and (b) of this schedule all which rates shall be paid in the manner hereinafter directed:

Provided that if a contributor dies between 22nd November and 13th February the annual rate which would have been payable at the term of Candlemas shall not be exigible but any previous arrears of rates shall be exigible along with the whole other payments specified in this schedule which are either in part or in whole unpaid at the date of death.

3. Every contributor who marries after the commencement of this Order shall in respect of his marriage be subject and liable to a sum equal to his annual rate and to the like sum for each succeeding marriage which sum shall be paid over and above his annual rate at the first term of Candlemas which happens after his marriage if his marriage takes place on or before the 22nd day of November preceding the said first term of Candlemas and if the said marriage takes place after the said 22nd day of November shall be paid at the term of Candlemas happening a year after the said first term of Candlemas.

4. When any contributor who is a minister is also a professor or has resigned his benefice to become a professor or has resigned his office to become a minister such contributor shall not be liable to double annual rates but shall continue to be liable for only the annual rate to which he is already subject.

5. The rates due by every contributor shall be paid to the treasurer at the office of the Fund in Edinburgh within eleven days after the respective terms of Candlemas hereinbefore in this schedule set forth and in default of such payment being made within the said time the contributors liable in payment of the same shall thereafter be subject to interest on such sums until paid.

### THIRD SCHEDULE

(Referred to in the sections of this Order of which the marginal notes are "Payment of expenses and provisions for widows and children" "Conditions as to payment of annuities" "Rule for increase or diminution" and "Safeguarding of rights and liabilities")

#### PART I

##### ANNUITIES TO WIDOWS OF CONTRIBUTORS

1. The annuities payable to the widows of contributors at the commencement of this Order to which they were then respectively entitled as increased or diminished from time to time by the Trustees under the powers conferred on them by this Order shall be paid in equal half-yearly portions on the 26th day of May and 22nd day of November and shall cease at the term of payment immediately preceding death or remarriage.

2. (a) An annuity at the current rate shall be paid to the widow of every contributor who dies after the commencement of this Order and who has been subject to one or other of the rates hereinbefore mentioned (excepting in the case of the widow of a contributor who ceases to be a contributor under the exceptions in regard to contributors resident furth of the United Kingdom contained in paragraph 1 sub-paragraphs (a) (b) and (c) of the Second Schedule to this Order).

(b) The said annuity shall subject to the provisions of this Order be payable in equal half-yearly portions on the 26th day of May and 22nd day of November the first of such half-yearly portions being due and payable on the 26th day of May or 22nd day of November following the date of the death of the husband and ceasing at the term of payment immediately preceding death or remarriage.

(c) For the purposes of this paragraph "annuity at the current rate" has the same meaning as in subsection (2) of the section of this Order of which the marginal note is "Payment of expenses and provisions for widows and children".

3. If a widow who became a widow after the 22nd day of November 1923 has married or hereafter marries a minister or professor and is the survivor of the said marriage her annuity shall be regulated in accordance with the annual rate payable by her last husband.

#### PART II

##### PROVISIONS FOR CHILDREN OF CONTRIBUTORS AT THE 22ND DAY OF NOVEMBER 1923

1. If the widow of a contributor who was a contributor at the 22nd day of November 1923 dies or remarries before the expiry of ten years from the 26th day of May or the 22nd day of November first occurring after the commencement of her annuity and her deceased husband has left children who at the said widow's death or remarriage are under the age of sixteen years such children shall be entitled to such sum of money as shall be equal to ten times the said widow's annuity (calculated on the original scale of ten pounds fifteen pounds twenty

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3RD SCH.  
—cont.

pounds or twenty-five pounds according to the annual rate payable by the contributor) deducting so much thereof as has been received by her relative to the aforesaid scale and the said sum shall be payable on the 26th day of May or 22nd day of November following death or remarriage and shall be divided equally among such children if there be more than one such child.

2. If a contributor who was a contributor at the 22nd day of November 1923 dies without leaving a widow but leaving children such children shall be entitled to a sum equal to ten times the original annuity that would have been payable to their father's widow videlicet one hundred pounds one hundred and fifty pounds two hundred pounds or two hundred and fifty pounds according to the annual rate payable by the contributor and the said sum shall be payable on the 26th day of May or 22nd day of November following the death of a contributor and if there is more than one such child shall be divided equally among such children.

3. If a contributor who was a contributor at the 22nd day of November 1923 dies without leaving a widow but leaving children under the age of eighteen years in addition to the provision contained in the preceding section an annuity of such amount as shall be equal to the annuity which would have been payable to their father's widow according to the aforesaid respective annual rates under deduction of the sum of fourteen pounds twenty pounds twenty-seven pounds or thirty-three pounds respectively shall be payable in equal half-yearly portions on the 26th day of May and 22nd day of November to such children commencing at the term of payment immediately following the said contributor's death and ceasing at the term of payment preceding the youngest child attaining eighteen years and if there is more than one child under eighteen years of age the said annuity shall be divided equally among such children.

4. The provisions for children contained in Part II of this Schedule shall not be applicable to the children of contributors who are within the exceptions in regard to contributors who may reside furth of the United Kingdom contained in sub-paragraphs (a) and (b) of paragraph 1 of the Second Schedule to this Order.

PART III

PROVISIONS FOR CHILDREN OF CONTRIBUTORS WHO BECAME  
CONTRIBUTORS BETWEEN THE 22ND DAY OF NOVEMBER 1923  
AND THE 2ND DAY OF OCTOBER 1929

For those who became contributors during the period from the 22nd day of November 1923 to the 2nd day of October 1929 (excepting those who have ceased to be contributors under the exceptions in regard to contributors who may reside furth of the United Kingdom contained in sub-paragraphs (a) and (b) of paragraph 1 of the Second Schedule to this Order) the provisions for children shall be as follows:—

(1) Any children in receipt of a family provision at the commencement of this Order shall continue to receive such provision which shall be payable in equal half-yearly portions on the 26th day of May



and 22nd day of November and subject to such alterations as may from time to time be made in pursuance of this Order until the youngest child attains the age of eighteen years.

3RD SCH.  
—cont.

(2) If a contributor being a widower dies leaving children under the age of eighteen years such children shall receive a family provision equal to the amount of the annuity to which the widow of the contributor would have been entitled had the contributor died leaving a widow which provision shall be payable in equal half-yearly portions to such children at the same times and in the same manner as the annuities to widows and subject to such alterations as may from time to time be made in pursuance of this Order shall commence at the term of payment immediately following the death of the said contributor and shall cease at the term of payment before the youngest child attains the age of eighteen years and if there is more than one child under eighteen years of age the said provision shall be divided equally among such children.

(3) If a contributor dies leaving a widow and children under the age of eighteen years such children shall receive a family provision equal to one-half of the said widow's annuity which provision shall be payable in equal half-yearly portions to such children at the same times and in the same manner as the annuities to widows and subject to such alterations as may from time to time be made in pursuance of this Order and shall commence at the term of payment immediately following the death of the said contributor and shall cease at the term of payment before the youngest child attains the age of eighteen years and if there is more than one child under eighteen years of age the said provision shall be divided equally among such children. This provision shall be payable in addition to an annuity to the widow but shall cease on her death and the annuity previously paid to the widow shall thereafter be the provision payable to the children which provision shall commence at the term on which the last payment of annuity was due to the widow and shall be payable in the same manner subject to alteration as aforesaid and shall cease at the term of payment before the youngest child attains the age of eighteen years.

#### FOURTH SCHEDULE

(Referred to in the section of this Order of which the marginal note is "Rule for increase or diminution")

##### CALCULATION OF INCREASE OR DIMINUTION IN THE AMOUNTS OF ANNUITIES TO WIDOWS AND CHILDREN OF CONTRIBUTORS

1. In the case of an increase of the annuities the portion allotted to the widows and children of contributors in accordance with the section of this Order of which the marginal note is "Rule for increase or diminution" shall (except as regards the annuities to children payable under paragraph 3 of Part II of the Third Schedule to this Order) be applied to increase the annuities to such widows and children proportionately to the annual rate of the class to which the contributor belonged.

2. In the event of a diminution of the annuities the share of the estimated capital deficit falling against the widows and children of contributors shall (except as regards the annuities to children payable

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4TH SCH.  
 —cont.

under paragraph 3 of Part II of the Third Schedule to this Order) be met by reduction of the annuities to such widows and children proportionately to the annual rate of the class to which the contributor belonged provided that if at any time the annuities payable to widows of contributors fall below the respective amounts of £41 £49 £57 and £65 any diminution shall so long as the annuities remain below the said sums respectively be applied equally to all such annuities and shall not be proportionate to the annual rates payable by the contributors and in the event of such diminution any increases thereafter shall be similarly applied equally to all such annuities until they are again restored to the above equal half-yearly amounts.

3. Any increase or diminution in the annuities to children payable under paragraph 3 of Part II of the Third Schedule to this Order shall be equal to the increases or diminutions in the annuities to widows according to the respective annual rates.

*Table of Statutes referred to in this Act*

Short title	Session and chapter
Glebe Lands (Scotland) Act 1866 ...	29 & 30 Vict. c. 71.
Private Legislation Procedure (Scotland) Act 1936 ... ..	26 Geo. 5. & 1 Edw. 8. c. 52.
Companies Act 1948 ... ..	11 & 12 Geo. 6. c. 38.

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# Churches and Universities (Scotland) Widows' and Orphans' Fund Order Confirmation Act, 1954

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