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STATUTORY INSTRUMENTS

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**1988 No. 2256**

**The Church of England Pensions Regulations 1988**

**PART III**

**PENSIONS FOR WIDOWS, WIDOWERS AND CHILDREN**

**Pensions for widows and widowers**

**14.**—(1) Subject to the provisions of this regulation, where a scheme member who has performed a qualifying period of pensionable service dies on or after the date on which these regulations come into force leaving a widow or widower, the widow or widower shall be entitled to receive from the Board for the remainder of her or his life a pension equal to two-thirds of the deceased member's pension.

(2) Where the deceased scheme member's marriage took place after the member's retirement from pensionable service and within six months of the member's death, the widow or widower shall not be entitled to a pension under this section, but the Board may if they think fit grant a pension to the widow or widower.

(3) The Board may if they think fit in exceptional circumstances grant a pension to the widow or widower notwithstanding that the deceased spouse had performed less than two years' pensionable service.

(4) The Board may if they think fit discontinue the payment of a pension to a widow or widower who remarries and may if they think fit resume the payment of a pension terminated on remarriage.

**Pensions for children**

**15.**—(1) Subject to the provisions of this regulation, where a scheme member who has performed a qualifying period of pensionable service dies on or after the date on which these regulations come into force leaving a child who has not attained the age of eighteen, the child shall be entitled to receive from the Board a pension of the following amount, that is to say—

- (a) if the scheme member dies leaving a widow or widower, a pension equal to one sixth of the deceased scheme member's pension, or
- (b) if the scheme member did not leave a widow or widower or if the widow or widower is dead, a pension equal to one third of the deceased scheme member's pension.

(2) The aggregate of the pensions that may be granted to the children of a scheme member under this regulation shall not exceed the deceased member's pension after deducting therefrom any pension payable to the widow or widower under regulation 14, and where by virtue of the preceding provision of this paragraph the amount available for pensions for the children of a scheme member is less than the aggregate of the pensions which, but for that provision, would be payable to the children, then the amount of the pension to which each child is entitled shall be determined by dividing the available amount between the children equally.

(3) Any pension under this regulation shall cease to be payable on the date on which the child attains the age of eighteen except that if after that date the child is receiving full-time instruction at

an educational establishment or is undergoing full-time training for a trade, profession or vocation, the child shall, subject to paragraphs (5) and (6) below, be entitled to receive that pension while receiving that instruction or undergoing that training.

(4) Where a scheme member dies leaving a child who has attained the age of eighteen and is receiving full-time instruction at an educational establishment or undergoing full-time training for a trade, profession or vocation, the child shall, subject to paragraphs (5) and (6) below, be entitled to receive any pension to which he would have been entitled if he had not attained the age of eighteen at the date of the scheme member's death.

(5) No pension shall be paid to any child by virtue of paragraph (3) or (4) above unless the instruction or training concerned has been approved by the Board.

(6) No pension shall be paid to a child in respect of any period after the 30th June next following the attainment by the child of the age of twenty-three.

(7) The Board may if they think fit in exceptional circumstances grant a pension to a child notwithstanding that the deceased scheme member had performed less than two years' pensionable service.

(8) The Board may if they think fit discontinue the payment of a pension to a child of a deceased scheme member if the widow or widower of that member re-marries and may if they think fit resume the payment of that pension.

#### **Supplementary provisions as to pensions for widows, widowers and children**

16.—(1) The Commissioners shall have power to give to the Board from time to time directions for increasing the rate of pension payable to a widow, widower or child under the preceding provisions of this Part of these regulations.

(2) The powers of the Commissioners to give directions under paragraph (1) above shall include power—

- (a) to give directions in respect of a class or description of widows, widowers or children, and in particular in respect of widows, widowers or children described by reference to the time of the deceased scheme member's retirement or death; and
- (b) to give directions for increasing the pension payable to a widow, widower or child to an amount based on what the deceased member's pension or entitlement to pension would have been if the member's period of pensionable service had included such additional number of years as may be specified in the directions or determined thereunder.

(3) The Commissioners may augment, by such amount as may be agreed with the Board and for such period as may be so agreed, the pension payable under the preceding provisions of this Part of these regulations to any individual widow, widower or child.

(4) Where a clerk has received a payment under paragraph (2) of regulation 12 above, and the amount paid to him has not been repaid under regulation 13 above, then, in determining for the purposes of regulations 14 and 15 above whether the clerk has performed a qualifying period of pensionable service, no account shall be taken of the service in relation to which that payment was made.

#### **Meaning of "deceased member's pension"**

17.—(1) Subject to the provisions of this regulation, in regulations 14 to 16 above the expression "deceased member's pension" means—

- (a) if at the date of death the scheme member was in receipt of a pension under these regulations, the pension received by the member;

- (b) if at the date of death the scheme member had attained the retiring age but was not in receipt of a pension under these regulations, the pension to which the member would have been entitled if he had retired on the date of his death;
- (c) if at the date of death the scheme member was performing pensionable service but had not attained the retiring age, the pension to which the member would have been entitled under these regulations if on that date the member had retired on the ground that he had become incapable through infirmity of performing the duties of his office;
- (d) if at the date of death the scheme member had ceased to perform pensionable service but had not attained the retiring age and was not in receipt of a pension under these regulations, the pension to which the member would have been entitled if on that date he had become incapable through infirmity of performing pensionable service.

(2) Where the pension of a scheme member has been suspended under regulation 9 above and the member dies while the pension is in suspension, then for the purpose of calculating the rate of pension to which a widow, widower or child is entitled under the preceding provisions of this Part of these regulations, any reference in those provisions to the deceased member's pension shall be construed as a reference to a pension at such rate as the Board think fit having regard to the additional period of pensionable service performed, not being at a rate lower than that received by the member before the suspension.

(3) In determining for the purposes of this regulation the rate of pension received by a scheme member, no account shall be taken of any augmentation or supplementary pension paid under regulation 6 above.

(4) Where a clerk has surrendered to the Board under an agreement made under section 15 of the 1961 Measure a part of his right to a pension under that Measure, he shall for the purposes of this regulation be deemed to have received the pension which he would have received if he had not entered into that agreement.

### **Power of Board to commute pension for capital sum**

**18.**—(1) Subject to paragraphs (2) and (3) below, where the aggregate pension payable under the preceding provisions of this Part of these regulations is not more than one hundred and four pounds per annum, the Board shall have power to commute the pension for such capital sum as is estimated to be the actuarial equivalent thereof, and the Board—

- (a) if the person entitled to the pension is of full age and capable of giving an effective discharge, shall pay the capital sum to that person, or
- (b) in the case of any other person, shall apply the capital sum for the maintenance, education and benefit of that person in such manner as they may think fit.

(2) The Board shall have power to deduct from any capital sum payable under paragraph (1) above an amount equal to the amount of any income tax payable by the Board in respect of that sum.

(3) Where the aggregate pension payable under the preceding provisions of this Part of these regulations is more than fifty pounds per annum and the person entitled to the pension is of full age and capable of giving his consent, the Board shall not exercise their powers under this regulation unless they have obtained that consent.