

**GENERAL SYNOD**

**CHURCH OF ENGLAND FUNDED PENSIONS SCHEME  
(AMENDMENT) RULES 2006**

Explanatory Memorandum

**Introduction**

1. The Pensions Measure 1997 required the Church of England Pensions Board to establish the Church of England Funded Pensions Scheme ('the funded scheme') by deed. It also provided for the making of rules as to the nature and amount of the pensions and lump sum benefits payable under the funded scheme and for the making of amending rules.
2. Section 2(2) of the 1997 Measure provided that any such rules are to be laid before the General Synod and are not to come into operation until they have been approved by the Synod. Section 2(3) in effect allows any rules (including amending rules) to be deemed to be approved by the Synod under the procedure set out in Standing Order 69.
3. This procedure was followed in making certain small changes to the rules of the funded scheme in 1997 and again in 2002. The Business Committee has agreed to the use of the deeming procedure in respect of the changes now proposed by the amending rules contained in GS 1627 ('the amending rules').

**Background**

4. The Finance Act 2004 introduced significant changes to the tax system applying to pensions and introduced greater flexibility for members in certain areas. In order to ensure that the funded scheme continues to comply with legislation, to avoid the imposition of significant tax charges and to allow members to take advantage of the additional flexibilities described below, modifications need to be made to the rules of the funded scheme.

5. In addition, the Pensions Act 2004 introduced a requirement for schemes to offer members leaving service with less than 2 years' service the choice of a refund of their own contributions or a cash equivalent transfer value to another scheme. The Pensions Board proposes to allow members with less than 2 years' service to preserve their benefits in the funded scheme, for the reasons outlined in paragraph 12.

### **Principles underlying the amending rules**

6. The amending rules have been drafted to make the necessary changes to the funded scheme in response to the Finance Act. The amending rules are technical in nature but set out to achieve three key aims:
  - the removal of pre-April 2006 Inland Revenue limits. This will, in particular, allow members greater flexibility in the payment of voluntary contributions and benefits;
  - protection for the funded scheme by preventing it being compelled to pay benefits which would be 'unauthorised' under the Finance Act, and thus suffering adverse tax consequences; and
  - protecting the funded scheme by enabling the trustees to recover any tax that may become due should the value of a member's benefits exceed the new 'lifetime allowance'.
7. The amending rules will have no impact on members' benefits except to the extent that payment would result in an 'unauthorised' payment being made. Such events are expected to be relatively rare.
8. Amending the funded scheme in the way proposed will provide protection for the funded scheme and allow the Pensions Board to introduce the additional flexibility in respect of voluntary contributions, pending the finalisation of detailed regulations by Her Majesty's Revenue and Customs ('HMRC'). Definitive rule amendments will be brought forward in due course.

### **The detailed changes to be made by the amending rules**

9. The key areas where benefits payable under the rules may become 'unauthorised' are described below.

- The definition of ‘dependent’ – the statutory definition is somewhat more restrictive than under the rules of the funded scheme. If a benefit were to be paid to someone outside the statutory definition, this may give rise to an unauthorised payment.
- Reduction or suspension of ill-health retirement pensions - the scheme permits the Trustee to reduce or suspend a pension paid following retirement on the grounds of ill-health if the pensioner becomes able to take up paid employment. Although the Finance Act allows pension to be suspended in these circumstances, it does not currently allow it to be reduced without it becoming an unauthorised benefit.
- Death after retirement – the scheme currently provides a guarantee that, if death occurs within the first year after retirement (3 years in the case of retirement on grounds of ill-health) a lump sum payment will be made. Under the new regime, such lump sums can continue to be paid in most circumstances. No tax is payable provided the amount, when added to the member’s own benefits, does not exceed the member’s ‘lifetime allowance’. If the member is age 75 or over on death, the lump sum will be ‘unauthorised’.
- Children’s pensions – the scheme currently provides that children’s pensions may be payable until 30 June following the child’s 23<sup>rd</sup> birthday (where the child is in full-time education). Benefits paid after a child’s 23<sup>rd</sup> birthday will normally become ‘unauthorised’ and so such pensions will, in future, have to be terminated on the birthday rather than continuing until the following 30 June. In addition, step-children can, in future, only receive pensions where dependency on the member can be demonstrated.

10. The effect of the amending rules will be that the Trustee will not be compelled to pay unauthorised payments, but the Trustee will have discretion to do so where this would have no adverse tax consequences for the funded scheme (or to substitute an alternative ‘authorised benefit’).

11. The key areas of additional flexibility the Pensions Board intends to introduce in relation to voluntary contributions paid by a member are as follows:

- At present, members are restricted to paying 15% of their taxable remuneration in the form of voluntary contributions. The Finance Act allows members to pay up to 100% of taxable salary (subject to an Annual Allowance amounting to £215,00 in 2006/7) and obtain tax relief. The effect of the removal of Inland Revenue restrictions by the amending rules will be to remove the 15% limit and allow members to pay whatever amount they wished.
- At present, members are unable to take any of the proceeds of their voluntary contributions in the form of tax-free cash (unless they commenced payment prior to March 1987). The changes to be introduced by the amending rules will allow members to take cash up to the new limits allowed by HMRC, which will enable most members to take substantial amounts of cash from their voluntary contributions fund.

12. The Pensions Act 2004 requires schemes to offer members with less than 2 years' (but more than 3 months') service the opportunity to take a cash equivalent transfer value to another pension scheme. The transfer value represents the actuarial value of the benefits that would otherwise be preserved. As the funded scheme is non-contributory any such members would be expected to take the transfer value. In view of the very small number of members who leave with less than two years service (typically only 2 or 3 a year), the Pensions Board takes the view that it would be sensible to allow such members to preserve their benefits in the funded scheme if they so wish. This would be both administratively simpler and would reduce complications caused by the scheme being contracted out of the State Second Pension. Pending a definitive rule amendment, this would be achieved by use of the augmentation powers contained in the rules of the funded scheme.

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