

GENERAL SYNOD**DRAFT CHURCH OF ENGLAND PENSIONS (AMENDMENT) MEASURE****Explanatory Memorandum**

1. This draft Measure is introduced on the instructions of the Archbishops' Council. It will not make any change to the Church's existing pensions legislation other than to extend the period during which the Church Commissioners may exercise their existing power to apply capital in the discharge of their pension liabilities.

The draft Measure

2. The Pensions Measure 1997:
 - limited the pension liabilities of the Church Commissioners to those arising from service to the end of 1997;
 - created a funded scheme into which dioceses pay clergy pension contributions for service from 1st January 1998; and
 - gave the Commissioners power, for an initial period of seven years, to spend their capital in meeting their pension liabilities.
3. It is the last of these provisions with which the new draft Measure is concerned. The Commissioners' power to spend capital in meeting their pension liabilities allows them to maintain a significant amount of other, non-pensions support for the Church's ministry, including that in the neediest parishes. Their initial power expired at the end of 2004 and was renewed for a further seven years by the Church of England (Pensions) Measure 2003 ('the 2003 Pensions Measure'). Unless other legislative provision is made, it will expire again at the end of 2011. Therefore the Commissioners, with the support of the Archbishops' Council and Church of England Pensions Board, seek to renew until 31st December 2018 the power to spend capital for the purpose of discharging their pensions liabilities (including staff pensions) relating to service before 1998.
4. Section 7(2) of the Pensions Measure 1997 (as substituted by s.5 of the 2003 Pensions Measure) confers power on the Commissioners, within the period ending on 31st December 2011, to apply capital funds for the purpose of meeting the cost of pensions or lump sums under the past service scheme or the Church Commissioners' superannuation Scheme (but in the latter case only insofar as they are attributable to service before 1st January 1998). Clause 1 of the draft Measure will amend s.7(2) by substituting "2018" for "2011". The exercise of the power conferred by s.7(2) will accordingly be extended until 31st December 2018.
5. Clause 2(1) deals with citation and clause 2(2) with territorial extent. And clause 2(3) makes a consequential amendment to the Diocese in Europe Measure 1980.

The history of the Commissioners' power to spend capital

6. In the mid 1990s there was much discussion in the Church and Parliament about the changes that needed to be made to the Church's funding arrangements for pensions. These discussions, which resulted in the Pensions Measure 1997, considered among other things the role of the Commissioners' fund in supporting the Church's mission. It was agreed that it should not become solely a pension fund as this would reduce the Commissioners' capacity to target funds

on areas of need and opportunity. The 1997 Measure therefore created a new fund, financed by dioceses and parishes, to be responsible for pensions earned on service from 1st January 1998 onwards and left responsibility for pre-1998 pension liabilities with the Commissioners, as well as giving them the power to spend capital for pension purposes until the end of 2004. The 2003 Pensions Measure enabled the renewal of the power which will now run until the end of 2011.

7. The granting of this power came about because by the mid-1990s it had become clear that the Commissioners' asset base could not sustain their expenditure commitments. This had forced them to attempt to boost income by adopting short-term investment strategies, but this had a negative impact on overall long-term investment performance. There were two alternatives to this skewing of the investment strategy toward income generation. One was to reduce the deficit between income and expenditure by making deep cuts in the Commissioners' non-pensions expenditure, but their parish ministry support had already been reduced from £66 million in 1991 to £20 million in 1997 and further cuts were extremely undesirable. So the Church and Parliament favoured the other alternative, i.e. giving the Commissioners the power to spend capital, thus enabling them to meet their pension liabilities *and* maintain a sustainable level of support for parish ministry and their other purposes.
8. Since the power came into effect on 1st January 1998, the Commissioners have spent over £400m of capital.

Renewing the power

9. The power to spend capital has been a crucial contributor to the positive performance of the Commissioners' fund over the last decade. It has given them the flexibility to rebalance the portfolio and focus on long-term returns, which means investing in real assets (which give the opportunity for capital growth) rather than high income yielding assets (which produce muted, if any, capital growth). Over the ten years 1997-2006, including the period in which they have had the power to spend capital, the Commissioners' returns have placed them in the top 2% of funds measured by WM – a widely used measure of comparative performance. This out performance translates into £43m more every year for the Church than would have been possible if their fund had performed in line with the average.
10. The Commissioners' actuaries advise that, if they are to meet both their pension liabilities and achieve their objective of increasing their various other forms of ministry support (e.g. parish mission and ministry support and support for bishops and cathedrals), their expenditure will continue to exceed income for a significant period. For this reason they seek a further renewal of the power to spend capital until 2018. The argument for the renewal is exactly as it was for the original granting of the power in 1997 and the first renewal in 2003, i.e. that the alternative would be either to make significant cuts in the Commissioners' non-pensions support to close the gap between income and expenditure or to change their investment strategy in order to boost short-term income, which would impact on the long-term performance of their fund and thus the level of distributions they can sustain from it.
11. As noted above, the power to spend capital has already been renewed once before. Moreover, once Synod had agreed to amend the 2003 Pensions Measure to remove a proposal that further renewals might be achieved by statutory instrument (following the indication from Parliament's Ecclesiastical Committee that such amendment would be required in order for it to find the Measure expedient) the 2003 renewal was on exactly the same terms now being proposed, i.e. a simple seven-year extension.

Scope of the Measure

12. The Commissioners have consulted the Archbishops' Council and the Church of England Pensions Board about their desire to renew the power and both bodies have supported this stance. In doing so, they have supported the Commissioners' view that this should be a straightforward renewal and that the Commissioners should not seek to lengthen the term of the power or extend the uses to which their capital can be applied.
13. The Commissioners believe that Parliament will take a similar view. The first Measure, passed in 1997, provided the Commissioners with a time-limited power to spend capital, thus enabling Parliament to maintain some control over the assets entrusted to the Commissioners by the State. Similarly, Parliament's Ecclesiastical Committee indicated that it could only find the 2003 Pensions Measure expedient if the proposal to enable subsequent renewal by statutory instrument were removed. Having taken recent soundings in Parliament, the Commissioners do not expect Parliament to be any more enthusiastic in 2008 about widening the scope of the Measure. They therefore wish to avoid the risk of failing to secure this vital power by overloading the legislation and so propose a simple seven-year extension.

Conclusion

14. The power to spend capital for pensions purposes is integral to the Commissioners' investment strategy and therefore to the amount they can distribute for the Church's mission over the long-term. With the support of the Archbishops' Council and Church of England Pensions Board they now seek its renewal until 2018.

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