

**GENERAL SYNOD**

**CHURCH OF ENGLAND FUNDED PENSIONS SCHEME (CESSATION OF CONTRACTING OUT ETC) (AMENDMENT) RULES 2010 (GS 1785)**

**CHURCH OF ENGLAND FUNDED PENSIONS SCHEME (RETIREMENT AGE ETC) (AMENDMENT) RULES 2010 (GS 1786)**

**CHURCH OF ENGLAND FUNDED PENSIONS SCHEME (ACCRUAL RATE) (AMENDMENT) RULES 2010 (GS 1787)**

**CHURCH OF ENGLAND FUNDED PENSIONS SCHEME (HEALTH AND DISABILITY) (AMENDMENT) RULES 2010 (GS 1788)**

**CHURCH OF ENGLAND FUNDED PENSIONS SCHEME (CIVIL PARTNERS' BENEFITS) (AMENDMENT) RULES 2010 (GS 1789)**

**CHURCH OF ENGLAND FUNDED PENSIONS SCHEME (MISCELLANEOUS PROVISIONS) (AMENDMENT) RULES 2010 (GS 1790)**

**CHURCH OF ENGLAND PENSIONS (AMENDMENT) REGULATIONS 2010 (GS 1791)**

**EXPLANATORY MEMORANDUM**

**Background**

1. The Report from the Archbishops' Council (GS 1780) describes the amendments to the provisions of the clergy pension arrangements arising from the following:
  - Implementation of the recommendations resulting from the work of the Archbishops' Task Group on pensions;
  - Implementation of the recommendations resulting from the work of the Ill-health Benefits Review Group (chaired by the former Bishop of Warrington, the Rt Revd David Jennings);
  - Implementation of the request from General Synod for civil partners' pensions to be on the same basis as widows' pensions;
2. In addition, the Pensions Board is proposing a number of amendments reflecting recent changes to pensions legislation and other miscellaneous issues.
3. The rule changes to implement the Task Group's recommendations have been subdivided into 3 separate instruments (GS 1785 – 1787). This is to reflect the way in which they are

set out in para 30 (1), (3) and (4) of GS 1780.

**Church of England Funded Pensions Scheme (Cessation of contracting out etc)  
(Amendment) Rules (GS 1785)**

4. This instrument implements the decision to contract the scheme back into the State Second Pension (S2P). As a result clergy will receive S2P benefits in respect of all service completed from 1 January 2011 in addition to their church pension. An integral part of this decision therefore is the reduction in the full service pension from 2/3rds of National Minimum Stipend (NMS) to ½. For most clergy this change will not affect the overall amount of pension they receive from both sources. This instrument therefore deals with both these aspects. The relevant changes are in rules 1.1, 3.1 and 12.6.
5. The definition of “Full Basic Pension” is deleted from rule 1.1. Because of the change of full pension from 2/3rds to ½ the drafting of the rules is made simpler by reference to the separate accrual periods rather than to a full pension.
6. Rule 3.1.1 is amended to introduce a new element of the calculation in respect of service from 1 January 2011 onwards, based on ½ the NMS rather than 2/3rds. The accrual rate has been maintained at 40ths for this period for the purposes of this instrument. **A separate instrument (GS 1787) will, if approved by the Synod, amend the accrual rate.** (See paragraphs 14-15 below.)
7. Rule 3.1.3 amends the maximum pension available for an individual to reflect the change in maximum pension from 2/3rds of NMS to half. The maximum will remain at 2/3rds for anyone who has earned full benefits prior to the end of 2010 while, for anyone joining from 1 January 2011, the maximum will be half. For everyone else, the maximum will be somewhere between the two, depending on the proportions of service before and after 1 January 2011. The actuary has confirmed that the formula set out in 3.1.3 (b) is an appropriate method for calculating the maximum pension in any individual case.
8. The formula operates as follows:

Firstly, the benefits in respect of service prior to 1 January 2011 are calculated. This is given by the first element of the formula:

$$\left(x \times \frac{2}{111} \times NMS\right) + \left(\frac{y}{60} \times NMS\right)$$

Note that  $\frac{2}{111} = \frac{1}{37} \times \frac{2}{3}$  and  $\frac{1}{60} = \frac{1}{40} \times \frac{2}{3}$ , reflecting the relevant accrual rates and the maximum pension that applied prior to 2011.

To this is added an amount that represents the difference between:

- ½ of NMS; and
- the amount of pension that would have been awarded on service prior to 2011 had that counted at ½ NMS rather than 2/3rds.

This is given by the second part of the formula:

$$\frac{\left(1 - \left(\frac{x}{37} + \frac{y}{40}\right)\right)}{2} \times NMS$$

This produces a result that gives due weight to service performed prior to 2011, with a smooth transition from 2/3rds to 1/2 over time.

The amount calculated by the second part of the formula might result in an amount less than zero. Should that occur then no deduction would be made from the amount calculated in the first part of the formula to prevent the maximum dropping below 2/3rds when that would be inappropriate.

9. Rule 12.6 is amended to reflect the cessation of the scheme's contracted out status.

#### **Church of England Funded Pensions Scheme (Retirement Age etc) (Amendment) Rules (GS 1786)**

10. This instrument deals with the increase in the pension age for the scheme to age 68 in respect of all service completed from 1 January 2011. The relevant changes are to rules 1.1, 3.2 and 4.2.
11. The definition of "Retiring Age" in rule 1.1 is amended to age 68. A note regarding the effect for members prior to 2011 is included.
12. These rule changes do not mean that all clergy must work on until age 68 to receive their pension but any benefits from service after 1 January 2011 would be reduced for early payment if taken before age 68.
13. Rule 3.2 is amended to set out how benefits will be reduced to take account of retirement prior to the new Retiring Age of 68. Rule 4.2 is the parallel provision in respect of members with deferred benefits under the scheme.

#### **Church of England Funded Pensions Scheme (Accrual Rate) (Amendment) Rules (GS1787)**

14. This instrument deals with the change in the accrual period from 40 to 41.5 years in respect of all service from 1 January 2011. The relevant change is to rule 3.1.1. This rule change does not mean that all clergy must serve for 41.5 years but that all service after the above date will be calculated on the basis of the new accrual rate. Service carried out between 1 January 2008 and 1 January 2011 will continue to be calculated on the basis of a 40 year accrual and service prior to 1 January 2008 on a 37 year accrual basis.
15. Rule 3.1.1 is amended to apply the new accrual rate. For clarity of presentation this is expressed as 2/83rds of the pension for each year of service rather than in terms of 41½ years accrual.

## **Church of England Funded Pensions Scheme (Health and Disability) (Amendment) Rules (GS 1788)**

16. This instrument implements the changes recommended by the Ill-health Benefits Review Group. The relevant changes are to rules 2.4, 5.1, 5.2 and 6.3.
17. As set out in the report of the Ill-health Benefits Review Group (GS 1759), prospective new entrants to the scheme are screened to ensure that any pre-existing medical or lifestyle conditions do not present a significant additional financial risk to the scheme. The current rules of the scheme permit the Pensions Board to refuse entry to any candidate where evidence of good health is not provided. As the rule only applies where such evidence has been specifically requested, evidence is now formally requested in all cases of candidates who may be ordained to stipendiary ministry. Rather than excluding someone entirely, however, the Board has been applying its discretionary powers to admit them but with restricted benefits. However, it was always the Board's intention to formalise this in the rules when a suitable opportunity arose. This approach was endorsed by the Ill-health Benefits Review Group (para 4.9 of GS 1759). The amendment to rule 2.4 implements this policy.
18. The amendment to rule 5.1 implements recommendation 5 of the Ill-health Benefits Review Group that ill-health retirement pension should be based upon years earned without reduction for early payment plus a graduated enhancement calculated according to years of service rather than full prospective service to retirement age.
19. Currently, benefits for a member who applies for ill-health retirement within 3 months of leaving active service are calculated as though the member is retiring from active service. The Review Group recommended (Recommendation 4) that this provision should be removed. Thus the benefits for such members in future would be the same as for those who had left service more than 3 months prior to their application. Amendments to rules 5.1.1 and 5.2 implement this recommendation.
20. Recommendation 8 of the Review Group was that the lump sum payable in the event of death within 3 years of ill-health retirement should be tapered in monthly steps rather than the present arrangement whereby the calculation changes in yearly steps. The amendment to rule 6.3 implements this change.

## **Church of England Funded Pensions Scheme (Civil Partners' Benefits) (Amendment) Rules (GS 1789)**

21. This instrument implements within the rules of the funded scheme the request by General Synod for civil partners' benefits to be calculated in the same way as for widows following approval of the Private Member's motion moved by the Reverend Mark Bratton. The relevant changes are to rules 1.1 and 7.
22. In rule 1.1 a new definition of "Civil Partner" is introduced.
23. There are various changes to rule 7 to reflect the extension of civil partners' rights. (There are separate, unrelated, changes to rule 7.5 included with the miscellaneous changes

instrument (GS 1790) described below.)

24. Rule 7.6, which made limited provision for civil partners' benefits, is deleted as it is replaced by the new provision for civil partners to be made by the amendments discussed above.
25. Separate changes are required in respect of the pre-1998 service scheme funded by the Church Commissioners (see paragraph 27 below).

**Church of England Funded Pensions Scheme (Miscellaneous Provisions) (Amendment) Rules (GS 1790)**

26. This instrument consists of various amendments reflecting recent legislative changes and other miscellaneous amendments. A description of the changes is given in the Annex to this paper.

**Church of England Pensions (Amendment) Regulations (GS 1791)**

27. As indicated above, the request by General Synod for civil partners' pensions to be calculated on the same basis as for widows also involves changes to the Regulations governing the scheme in respect of benefits earned from service prior to 1 January 1998. These are set out in GS 1791. The Board of Governors of the Church Commissioners has concurred in the changes being put to the Synod.

Church House, Westminster

June 2010

**Miscellaneous Changes to the Rules of the Church of England Funded Pensions Scheme  
(GS 1790)**

<b>Provision</b>	<b>Rule</b>	<b>Comment</b>
Throughout	N/A	References to "Trustee" is replaced with reference to "Board" (reflecting terminology generally used).
Definition of Dependant	1.1	The Finance Act restriction has been amended to make clear this only applies for the purposes of paying a pension (not a lump sum).
Pensionable Children	7.5	Provisions have been inserted allowing the Board to pay a child's pension even if either (a) the child did not qualify at the member's death or (b) the child ceases to qualify and then requalifies. This allows the Trustee to deal with cases where a child takes a gap year and so ceases to be in full time education or training.
Loss of right to benefits	12.3	The final paragraph has been amended to make clear that the Board cannot use the statutory provisions to enable forfeiture on grounds of a debt owed to the Responsible Body arising from negligence - this reflects the fact that the Rules have only ever allowed forfeiture in cases of debt arising due to fraud or criminal acts or omissions.
Beneficiary who is incapable	12.4	A provision has been inserted allowing the Board to be discharged from liability if it makes a payment to a child aged 16 or above (without this provision, the default would be age 18). This provides more flexibility in making lump sum payments on death in service.
Payment before grant of representation	12.7	A new provision has been added enabling the Board to make payments to a Member's next of kin rather than having to wait for a grant of representation (i.e. probate or letters of administration) to be taken out in relation to the member's estate. Again, this provides more flexibility in paying lump sums on death.
Pension sharing on divorce etc	13	All references to safeguarded rights are deleted - legislation has removed this concept.
Lump sums instead of small pensions	14.2	This provision has been updated and extended to allow the Board to take advantage of the newly relaxed trivial commutation rules which (a) allow commutation of total amounts up to £2000 without reference to benefits under other schemes and (b) commutation without member consent.
Discretionary benefits	14.4	Provision has been extended to allow the Board to use this Rule to provide "unauthorised benefits" if they wish to do so. Note this would have adverse tax consequences and so would be used with caution, but it may occasionally allow helpful flexibility.

Securing benefits with insurance policies and annuity contracts	15.3	A new provision has been added allowing the Board to transfer any annuities which it buys into member names. This would be helpful should the Board at some stage in the future wish, for example, to purchase annuities from an insurance company instead of paying pensions from the scheme. This rule would enable the Board to enter into a "buy in" arrangement (where the annuities would be regarded as an investment of the scheme) initially and later move to a "buy out" (where the annuities would be in members' names and entirely separate from the scheme). There are no current plans to make use of this facility.
Members who left Service before effective date	16	Updated to reflect proposed effective date of new Rules.

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