

GENERAL SYNOD

THE CHURCH OF ENGLAND FUNDED PENSIONS SCHEME (MISCELLANEOUS PROVISIONS) (AMENDMENT) RULES 2010

Made by the Church of England Pensions Board ***

Approved by the General Synod ***

Coming into force *1st January 2011*

The Church of England Pensions Board makes the following rules for the purposes of the Church of England Funded Pensions Scheme:

1. These rules shall come into force on 1st January 2011.
2. In these rules “the Scheme Rules” means the Rules of the Church of England Funded Pensions Scheme.
3. In Rule 1.1 of the Scheme Rules, for the definition of “Dependant” substitute—

“**“Dependant”** means anyone who is financially dependent on the Member or other person concerned, or was so dependent at the time of that person’s death. This includes anyone who shares living expenses with, or receives financial support from, the Member or other person, and whose standard of living would be affected by the loss of that person’s contribution or support, but for the purposes of paying a pension on the Member’s death does not include any person who is not a dependant as defined in Schedule 28 to the Finance Act 2004. The Board’s decision as to whether someone is another person’s Dependant will be final. However, a person’s spouse, Civil Partner and children (excluding step-children) under the age of 23 will always be Dependants.”.
4. In Rule 7.5 of the Scheme Rules, after the definition of “Pensionable Children” insert—

“It may be that a child:

 - (a) is a Pensionable Child at the date of the Member’s death and ceases to be one by reason of ceasing to be in full time education or training approved by the Board but subsequently re-enters full time education or training approved by the Board before reaching age 23; or
 - (b) is not a Pensionable Child at the date of the Member’s death but subsequently enters full time education or training approved by the Board before reaching age 23.

If so, the Board may (but need not) treat the child as a Pensionable Child from the date when he or she enters or re-enters full time education or training approved by the Board. The child will then be a Pensionable Child until the earlier of reaching age 23 or ceasing to be in full time education or training approved by the Board.”.
5. For Rules 12.3 and 12.4 of the Funded Scheme substitute—

“12.3 Loss of rights to benefits

Benefits under the Scheme are subject to restrictions imposed by Sections 91 to 93 of the Pensions Act 1995 (assignment and forfeiture, etc). These restrictions are intended generally to ensure that benefits are paid only to the person entitled under these Rules, rather than to any

other person. The restrictions prevent benefits from being assigned, commuted, surrendered, charged, or forfeited, except in specified circumstances.

However, there are exceptions to these restrictions. Where the exceptions allow:

12.3.1 a Responsible Body may require the Board to reduce or forfeit a person's benefits if the person owes money to the Responsible Body and the debt arises out of a criminal or fraudulent act or omission. If this happens, the Board will pay the Responsible Body an amount equal to the debt or, if less, the value of the person's benefits.

12.3.2 the Board may reduce or forfeit a person's benefits if the person owes money to the Scheme;

12.3.3 the Board may forfeit any benefits that are payable in respect of a Member to a person who is convicted of the Member's murder or manslaughter, or any other offence of which unlawful killing of the Member is an element (including aiding, abetting, counselling or procuring the Member's death); and

12.3.4 a benefit will cease to be payable if the person entitled to it under these Rules tries to assign or charge it. If this happens, the Board may (but need not) pay an equivalent or smaller discretionary benefit to, or for the benefit of, one or more of:

(i) the person who was entitled to the original benefit;

(ii) that person's spouse, Civil Partner or Dependants.

If the Board decides to pay a discretionary benefit to more than one person, the Board will pay it in such shares as it decides and may deduct any expenses incurred in paying the benefit.

12.3.5 a benefit will cease to be payable if the person entitled to it does not claim it within six years of the date on which it becomes due.

The Board may also reduce or forfeit a person's benefits in any other circumstances that the exceptions allow other than where the person owes money to the Responsible Body and the debt arises out of a negligent act or omission.”.

12.4 Beneficiary who is incapable

If the Board considers that a person cannot look after his or her affairs (because of illness, mental disorder, age or otherwise) they may use any amounts due to that person for his or her benefit or may pay them to some other person to do so. The Board may make, for the person concerned, any choice which that person has under the Scheme. The Board may also treat any application made on behalf of that person as made by that person.

The Board may pay all or part of a benefit to a person who is aged 16 or over. The receipt of that person is a complete discharge for the amount paid and the Board will have no further responsibility in relation to the payment.”.

6. After Rule 12.6 of the Scheme Rules insert—

“12.7 Payment before grant of representation

It may be that a sum of less than £5,000 is payable to a person's personal representatives but no grant of representation has been made to the person's estate. If so, the Board may pay the

amount to the person's widow, widower, surviving civil partner or statutory next of kin instead of to the person's personal representatives.”.

7. For Rule 13 of the Scheme Rules substitute—

“13 Pension sharing on divorce, etc

13.1 Compliance with pension sharing orders

It may be that an order or other provision under Section 28(1) of the Welfare Reform and Pensions Act 1999 or equivalent Northern Ireland laws (activation of pension sharing) requires all or part of a Member's benefits to be transferred to the Member's former spouse or Civil Partner. If this happens, the Board will discharge its liability to the former spouse or Civil Partner in respect of pension sharing costs, as allowed by the Act.

13.2 Benefits under the Scheme

If the Board provides pension credit benefits for the former spouse or Civil Partner under the Scheme, these benefits will be provided separately from any other benefits to which the former spouse or Civil Partner may be entitled under the Scheme.

13.3 Death of former spouse or Civil Partner before a transfer payment is made

It may be that the Board intends to discharge its liability to the former spouse or Civil Partner by making a transfer payment to another pension arrangement, but the former spouse or Civil Partner dies before the payment is made. If this happens, the Board may (but need not) use the intended transfer payment to provide benefits in respect of the former spouse or Civil Partner in any of the ways allowed by the Welfare Reform and Pensions Act 1999. Any part of the intended transfer payment that is not used in this way will be retained by the Board as part of the Scheme's general assets.”.

8. For Rule 14.2 of the Scheme Rules substitute—

“14.2 Lump sums instead of small pensions

It may be that the value of a person's benefits under the Scheme (including any death benefits) does not exceed £2,000 or is otherwise so small that the Board could pay a trivial commutation lump sum or a trivial commutation lump sum death benefit instead of those benefits. If so, the person may choose a lump sum instead of those benefits, or the Board may decide in any event to pay a lump sum instead of those benefits. However, the Board may pay the lump sum only if the lump sum would be authorised for the purposes of Part 4 of the Finance Act 2004 and allowed by the Contracting-out Laws.

The Board will calculate the lump sum on a basis certified as reasonable by an Actuary.” .

9. For Rule 14.4 of the Scheme Rules substitute—

“14.4 Discretionary Benefits

If the relevant Responsible Body (if any) agrees and pays any additional contribution that the Board considers appropriate (after taking actuarial advice), the Board may provide:

14.4.1 increased or additional benefits for or in respect of any Member or Members;

14.4.2 benefits for or in respect of any Member or Members different, or on different terms (including as to time of payment), from those set out elsewhere in the Rules; or

14.4.3 benefits on any terms for any other person for whom the relevant Responsible Body wishes to provide benefits.

Any benefits provided under this Rule will be consistent with the Contracting-out, Preservation, Revaluation and Transfer Value Laws and will be authorised for the purposes of Part 4 of the Finance Act 2004 unless the Board and the relevant Responsible Body agree otherwise.”.

10. For Rule 15.3 of the Scheme Rules substitute—

“15.3 Securing benefits with insurance policies and annuity contracts

If the Board has bought an insurance policy or annuity contract to secure all or part of a person’s benefits under the Board it may transfer the policy or contract into the person’s name at any time. if the Board does this, the person will cease to be entitled to those benefits under the Scheme.

Any transfer under this Rule must comply with the Contracting-out and Preservation Laws.”.

11. For Rule 16 of the Scheme Rules substitute—

“16 Members who left Service before 1 January 2011

The benefits for Members who left Service before 1 January 2011 will be calculated as described in the provisions of the Scheme in force previously from time to time. The benefits will, however, be paid as described in these Rules, and the Trust Deed. Rules 6.4 (payment of lump sum death benefits), 11 to 15 and 17 to 18 of these Rules will apply in place of any corresponding previous provisions of the Scheme. In particular, Rule 12.5 (tax status of the Scheme) will apply so that, if the Board would otherwise be required to make a payment that would be “unauthorised” by virtue of Section 160 of the Finance Act 2004, the payment will be treated as discretionary and will not be made unless Board agrees otherwise (which it need not do).

However, the provisions of these Rules will apply to:

- (a) payment of pensions to Civil Partners on any death of a Member on or after 5 December 2005; and
- (b) a child who:
 - (i) is a Pensionable Child at the date of the Member’s death and ceases to be one by reason of ceasing to be in full time education or training approved by the Board but subsequently re-enters full time education or training approved by the Board before reaching age 23; or
 - (ii) is not a Pensionable Child at the date of the Member’s death but subsequently enters full time education or training approved by the Board before reaching 23.”.

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