GS 1936X

GENERAL SYNOD

DRAFT CHURCH OF ENGLAND (PENSIONS) (AMENDMENT) MEASURE

EXPLANATORY MEMORANDUM

1. This draft Measure will make no changes to the Church's existing pensions legislation other than to extend the period during which the Church Commissioners may exercise their existing time limited power to apply capital in the discharge of their pensions obligations.

BACKGROUND

2. In the mid-1990s there was considerable discussion between 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 exclusively a pension fund as this would remove the Commissioners' ability to target funding on areas of need and opportunity.

3. The 1997 Measure therefore created a new fund – into which contributions are paid by dioceses and other responsible bodies - to be responsible for pensions earned on service from 1 January 1998 onwards, and left responsibility for pensions earned in respect of service before that date with the Commissioners, as well as giving them the power to spend capital for pension purposes until the end of 2004. That power has been twice renewed by Measure[1] for seven-year periods: the current power to spend capital runs until the end of 2018. The Commissioners are seeking to renew it until 31st December 2025.

4. Consideration has not been given on this occasion to asking Parliament for a longer period, or to asking Parliament to make provision granting a power to extend the period by statutory instrument. These matters were considered at some length before the Ecclesiastical Committee in 2003, and it was clear then that the will of Parliament was that the power should be renewed regularly by Measure and that its scope should not be extended.

5. Between when the power came into effect on 1 January 1998 and the end of 2013, the Commissioners have spent approximately £960 million of their capital for pension purposes.

THE MEASURE

6. The purpose of this Measure is to extend the power to spend capital until 31st December 2025. This power has been a crucial contributor to the strong long-term investment performance of the Commissioners' fund as it has given them the flexibility to pursue an investment strategy focussed on investing mainly in

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[1] The Church of England (Pensions) Measure 2003 and the Church of England (Pensions)(Amendment) Measure 2009

real assets with regard to prospective total returns – capital appreciation as well as income - without being constrained by needing to raise enough income to fund all their pensions obligations and other distributions. In the 20 years 1993-2012 the fund achieved an average return of 9.9% per annum, exceeding the fund's long term performance target of RPI+5% by 2.0% per annum.

7. In their calculations, the Commissioners' actuaries focus on total return and make no distinction on how much of that return comes from income and how much from capital appreciation. If the Commissioners are to meet their pensions obligations and continue to achieve their aim to increase over time their various other forms of ministry support (such as support for parish mission and ministry, bishops and cathedrals), their expenditure is likely to continue to exceed their income for a long time after December 2018.

8. Since the last renewal of the power to spend capital was sought, in 2009, the legal position has materially altered, in that the Commissioners have obtained an order from the Charity Commission enabling them to invest and spend on a "total return" basis. This order brought the Commissioners' accounting practice in line with their investment strategy and actuarial methodology. However, the order was granted on the basis that the power to spend capital would still be available, and therefore the "base capital" of the Commissioners' fund will be recalculated each year to reflect their pensions spending. If payments are instead made out of the unapplied total return rather than the "base capital", the recalculation provided for in the order cannot take place and the funds available each year for spending on the Commissioners' other beneficiaries would have to be significantly reduced, with the result that a greater and greater proportion of the Commissioners' fund will be locked away.

NOTES ON CLAUSES

Clause 1 (Amendment of section 7 of Pensions Measure 1997, and consequential amendment to the Diocese in Europe Measure 1980)

9. Subsection (1) extends the Commissioners' power to spend capital, by substituting for the reference to "31st December 2018" a reference to "31st December 2025".

10. Subsection (2) makes a consequential amendment to the reference to the "Church of England (Pensions) Measures" in section 5(1) of the Diocese in Europe Measure, including the date of this new Measure.

Clause 2 (Citation, commencement and extent)

11. This clause makes provision for the short title of the Measure, the commencement date and its extent to the whole of the provinces of Canterbury and York.

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