

PRIVATE MEMBERS' MOTION

PARITY OF PENSION PROVISION FOR SURVIVING CIVIL PARTNERS

A background paper prepared by Mark Bratton

Introduction

1. This motion seeks an extension of the clergy pension scheme and a new rule allowing the Trustees to pay benefits on scheme members' service performed prior to 5th December 2005. This extension would go beyond what the law strictly requires and empower the Trustees to pay pensions to the surviving civil partners of deceased scheme members on the same basis as they are currently paid to the spouses of deceased scheme members

The history of the law relating to civil partners

2. The history of the law relating to pension provision for registered civil partners is complex. Amendments to the Employment Equality (Sexual Orientation) Regulations 2003 made following the Civil Partnership Act 2004 made it unlawful for sponsors of pension schemes to make provision for civil partners on a different basis from those for spouses. However, this legal change did not create complete equivalence between the position of surviving civil partners and the position of widows and widowers.
3. The law only creates equivalence between surviving civil partners and surviving spouses in relation to service completed from 5 December 2005. It did, however, improve the pension position of some civil partners by giving a certain limited and modest retrospection for service accrued after 6th April 1988 which was contracted out of the State Earnings Related Pension Scheme or the State Second Pension¹. The law does not require sponsors of pension schemes to increase the measure of retrospection so that there is equivalence in pension provision for surviving civil partners and surviving spouses.
4. However, the law does not prevent the sponsors of the pension scheme from going beyond what the law strictly requires of them and paying more than they are

¹ For full details see –Annex A

legally required to do. If General Synod wished such a change to be made it would need to ask the Church of England Pensions Board to make changes to the funded scheme rules. In the light of this the Pensions Board would need to satisfy themselves that the contribution rate paid by the parishes and dioceses was sufficient to cover the increased liabilities. The benefit provisions of the clergy pension scheme are governed by the Rules of the Church of England Funded Pension Scheme in respect of service since 1998, and by the Church of England Pensions Regulations 1988 in respect of pre-1998 service. It would be up to the Church Commissioners to consider whether they were prepared to increase their pension liabilities by bringing forward amendments to the 1988 Regulations to apply a similar extension of rights in respect of pensions relating to service before 1998.

5. In consultation with the Pensions Board, the Deployment, Remuneration and Conditions of Service Committee (DRACSC) of the Archbishops' Council advises the Council, the Commissioners and General Synod on pensions policy. In 2006 and 2007 DRACSC considered the question of survivors' rights for civil partners and decided against recommending that these be extended beyond the legal requirements, for reasons which are set out in GS 1770B.
6. This means that there is still a lack of parity between survivors' pension provision for civil partners as against spouses in relation to pension benefit accrued before 5th December 2005. This, it is suggested, is unjust, and a source of hardship for a number of surviving civil partners of deceased clergy, especially surviving partners of those who retired before 2005. This Private Members Motion (PMM) seeks to address this injustice and to ameliorate the source of hardship.

The constituencies affected

7. There are four categories of stipendiary clergy in relation to whom survivor pensions could apply:
 - a. Clergy entering stipendiary service after 5th December 2005
 - b. Clergy entering stipendiary service before 5th December 2005
 - c. Stipendiary clergy retired before 5th December 2005
 - d. Stipendiary clergy retired before 6th April 1988
8. The current clergy pension scheme is unproblematic for constituency a., varyingly problematic for constituency b depending on how many years before 2005 they entered stipendiary service, and considerably problematic for constituencies c.

and d. This Private Members Motion (PMM) seeks to address the problems caused by the current pension rules to b, c. and d.

9. For example, the surviving partner of a deceased clergy person who retired in 1992 would only be entitled to 50% of the GMP for service accrued after 6th April 1988 (around four years in this particular case). This could amount to a minute proportion of the clergy pension their civil partner was receiving.
10. Survivors of civil partnerships contracted since the legislation came into force but preceded by long standing relationships, and who have themselves limited occupational pensions, either through illness or the way they have decided to organise their domestic life, find themselves at a particular disadvantage, compared to widows and widowers, who generally receive a pension equivalent to 2/3rds of that their retired clergy spouse had been receiving.²

The case for change

11. There are a number of mutually reinforcing, but nevertheless free-standing, arguments supporting the case for change:
 - a. **The 'justice' argument**
 - i. It is unjust and unacceptably discriminatory to allow surviving spouses a more generous measure of retrospection than is currently allowed for surviving civil partners.
 - ii. Spouses who marry late, including after retirement, receive full survivor spouses benefits even though they may not have anticipated marrying and regardless of whether or not they are in need. The view that those whose partnership and dependence precedes the Act of 2005 (but could not register a Civil partnership as this did not exist in law), could not have anticipated the Act and the consequent entitlement and therefore have no right to receive it is unjust in that this reasoning is not applied to surviving spouses in this category. The surviving civil partner, who may be in great need is being denied support on grounds that are not applied to those who marry late or indeed after retirement

² Unless death occurred within 6 months of the marriage being contracted in which case the surviving spouse would have no automatic entitlement to any pension.

b. **The 'hardship' argument**

There are a number (perhaps small) of surviving civil partners of long-standing relationships with deceased clergy whose difficult financial circumstances would be significantly improved if they enjoyed the same pension rights as surviving spouses.

c. **The 'pragmatic' argument**

- i. The financial implications of extending the clergy pension scheme to accommodate clergy who were ordained and/or retired before 5th December 2005 are time-limited.
- ii. It is a reasonable assumption that there is a relatively small number of surviving civil partners who would benefit from an extended clergy pension scheme.
- iii. Extending equivalent rights to civil partners would not have any immediate impact on the contribution rate, although there would be a real, though supportable, cost to the pension in the long term

Mark Bratton

5th January 2010

Benefits for Civil Partners

Service from 5 December 2005

Benefits are provided on an identical basis for widows, widowers and registered civil partners

Service between 6 April 1997 and 4 December 2005

A pension of 50% of the “reference scheme” benefit is payable. The reference scheme is used to determine whether or not a scheme is able to contract out of the State Second Pension (S2P) (previously the State Earnings Related Pension Scheme (SERPS)). The reference scheme benefit is broadly $1/80^{\text{th}}$ of 90% of earnings between the National Insurance Lower and Upper Earnings Limits for each year of service.

This benefit is only payable when a civil partnership was registered prior to scheme benefits coming into payment.

Service between 6 April 1988 and 5 April 1997

A pension of 50% of the member’s “Guaranteed Minimum Pension” (GMP). The GMP is broadly equivalent to the SERPS pension that would have been paid by the state if the scheme had not been contracted out.

Service Prior to 6 April 1988

No benefits payable

**Published by the General Synod of the Church of England
and on sale at the Church House Bookshop**

31 Great Smith Street, London SW1P 3BN

Copyright © The Archbishops' Council 2009

£1

