

The Church of England Funded Pensions Scheme Deed to amend the Rules

This deed is made on 12 October 2010 by The Church of England Pensions Board.

Introduction

- (A) The Church of England Pensions Board are the trustees for the time being of The Church of England Funded Pensions Scheme (the "Trustees").
- (B) The Trust Deed and Rules of The Church of England Funded Pensions Scheme (the "Scheme") were made on 5 December 1997 in accordance with the Pensions Measure 1997 (the "Measure").
- (C) Clause 2 of the Trust Deed says that the Deed and the Rules may be amended or replaced from time to time by the Trustees with the approval (actual or, when permitted by the Measure, deemed) of the General Synod, and subject to Section 67 of the Pensions Act 1995.
- (D) In exercise of its powers under Clause 2, the Trustees with the approval of the General Synod, amends the Scheme as described in this deed with effect from 1 January 2011.

Benefits for Members

Definitions

- 1 Rule 1.1 is amended by adding the following definition of "Civil Partner" after the definition of "Church of England Pension Scheme":

"Civil Partner" means a Member's registered civil partner under the Civil Partnerships Act 2004."
- 2 Rule 1.1 is amended by deleting the definition of "Dependant" and replacing it with the following:

"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 Dependents."
- 3 Rule 1.1 is amended by deleting the definition of "Retiring Age" and replacing it with the following:

"Retiring Age" means a Member's 68th birthday.

Note: Before 1 January 2011, Retiring Age was the Member's 65th birthday. Members retain certain rights to start receiving a pension on leaving Service at or after age 65. See Rule 3.2 (early retirement)."
- 4 Rule 1.1 is amended by deleting the definition of "Full Basic Pension".

5 Rule 2.4 is deleted and replaced with the following:

"2.4 Evidence of health

If a person fails to provide evidence of good health which is satisfactory to the Board, the Board may:

2.4.1 refuse him or her entry to the Scheme under Rule 2.1 or 2.2; or

2.4.2 restrict any benefits payable on his or her death or early retirement.

This Rule only applies where such evidence has been specifically requested."

6 Rule 3.1.1 is deleted and replaced with the following:

"3.1.1 Basic pension rates

A Member who leaves Service at or after Retiring Age will receive a pension for life at a yearly rate calculated as:

- (a) 1/37 of 2/3 of the National Minimum Stipend in the 12 months ending on the 31 March before the Member leaves Service for each year of Pensionable Service before 1 January 2008 plus an additional proportion for each day before that date;
- (b) 1/40 of 2/3 of the National Minimum Stipend in the 12 months ending on the 31 March before the Member leaves Service for each year of Pensionable Service on or after 1 January 2008 and before 1 January 2011 plus an additional proportion for each day during this period; and
- (c) 2/83 of 1/2 of the National Minimum Stipend in the 12 months ending on the 31 March before the Member leaves Service for each year of Pensionable Service on or after 1 January 2011 plus an additional proportion for each day on or after that date.

The Member will also receive a lump sum equal to three times the Member's Pension or, if less the maximum "pension commencement lump sum" permitted for the purposes of Part 4 of the Finance Act 2004.

However, no benefits will be provided unless the Member has a total of at least 3 months' Pensionable Service and Past Service, unless the Board decides otherwise.

A Member who stays in Service after reaching age 75 will be treated for all the purposes of the Scheme as having left on reaching that age, unless the Member has held the same office since 31 December 1975."

7 Rule 3.1.3 is deleted and replaced with the following:

3.1.3 Maximum pension

The total pension payable under this Rule 3.1 cannot exceed the lesser of:

- (a) 2/3rd of NMS or
- (b) an amount given by the formula:

$$\left(x \times \frac{2}{111} \times NMS\right) + \left(\frac{y}{60} \times NMS\right) + \text{the greater of:}$$

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

(ii) zero

where:

x = full time equivalent service prior to 1 January 2008

y = full time equivalent service between 1 January 2008 and 31 December 2010 inclusive

NMS = the National Minimum Stipend in the 12 months ending on the 31 March before the Member leaves Service"

8 Rule 3.2 is deleted and replaced with the following:

3.2 Early retirement

A Member who leaves Service after reaching age 55 and before Retiring Age may choose an immediate pension and lump sum on leaving. However, the Member must give at least three months notice of retirement to the Board (and, if his Service is being performed under the direction of a diocesan bishop, to that bishop).

The benefits will be calculated as described in Rule 3.1. However:

- (a) the benefits attributable to Pensionable Service before 1 January 2011 will be reduced to take account of commencement before age 65 and the longer potential period of payment; and
- (b) the benefits attributable to Pensionable Service on or after 1 January 2011 will be reduced to take account of commencement before Retiring Age and the longer potential period of payment.

In each case, the Board will decide the amount of the reduction after obtaining actuarial advice.

The Board must be satisfied that the benefits (including death benefits) for a Member who retires early under this Rule are at least equal in value to the benefits to which the Member would otherwise have become entitled on leaving service.

If the Member is granted Disability benefits under Rule 5.1 (Disability retirement benefits), this Rule will not apply."

Early leavers

9 Rule 4.3 is deleted and replaced with the following:

"4.2 Preserved benefits paid early

A Member entitled to preserved benefits may choose to receive them before Retiring Age (but not before reaching age 55). If the benefits are paid before Retiring Age:

- (a) the benefits attributable to Pensionable Service before 1 January 2011 will be reduced to take account of commencement before age 65 and the longer potential period of payment; and
- (b) the benefits attributable to Pensionable Service on or after 1 January 2011 will be reduced to take account of commencement before Retiring Age and the longer potential period of payment.

In each case, the Board will decide the amount of the reduction after obtaining actuarial advice.

The Board must be satisfied that the benefits (including death benefits) for a Member who retires early are at least equal in value to the benefits that would otherwise have been provided for the Member under the Scheme.

If the Member is granted Disability benefits under Rule 5 (Disability benefits), this Rule will not apply."

Disability benefits

10 Rule 5.1 is deleted and replaced with the following:

"5.1 Disability retirement benefits

The Board will grant a Disability pension and lump sum under this Rule if:

- 5.1.1 a Member applies for an early pension on grounds of Disability before leaving Service; and
- 5.1.2 the Board is satisfied that the Member is suffering from Disability which is likely to be permanent.

The pension and lump sum will be calculated as described in Rule 3.1 but Pensionable Service will include an additional amount equal to:

$$\frac{A \times P}{T}$$

T

where:

A is actual completed Service;

T is actual completed Service plus the Pensionable Service the Member could have completed if he or she remained in Pensionable Service up to Retiring Age; and

P is the period between leaving Service and Retiring Age.

If the Member was in part-time Service or earning less than the National Minimum Stipend immediately before leaving Service, this Pensionable Service will be calculated on the

assumption that the Member would have continued in the same Service and earning the same proportion of the National Minimum Stipend until Retiring Age.

The pension will be payable with effect from the day following cessation of Service."

11 Rule 5.2 is deleted and replaced with the following:

"5.2 Preserved benefits payable early on grounds of Disability

The Board will grant a Disability pension and lump sum under this Rule if:

5.2.1 a Member entitled to preserved benefits applies to receive them before Retiring Age on grounds of Disability after leaving Service; and

5.2.2 the Board is satisfied that the Member is suffering from Disability which is likely to be permanent.

The pension and lump sum will be equal to the Member's preserved benefits under Rule 4.1, including increases as if the Revaluation Laws applied in respect of the period between the date on which the Member left Service and the date on which the pension and lump sum become payable. If the Board has granted additional increases to the Member's preserved benefits under Rule 4.1, the benefits under this Rule will also take account of those increases.

The pension and lump sum will become payable on the date on which the application is approved, or such earlier date as the Board may decide."

Lump sum payable on Member's death

12 Rule 6.3 is deleted and replaced with the following:

"6.3 Member dies before Retiring Age while receiving a Disability pension under Rule 5.1

If a Member dies before Retiring Age while receiving a Disability pension under Rule 5.1 (Disability retirement benefits), a lump sum death benefit will be payable as described in Rule 6.4.

The benefit will be based on the amount that would have been payable under Rule 6.1 if the Member had died immediately before leaving Service, but based on the National Minimum Stipend in the 12 months ending on the last 31 March before the Member's death (the "**Basic Benefit**").

If the Member dies within 12 months after leaving Service, the benefit will be equal to the Basic Benefit less the Basic Lump Sum paid on retirement and less the payment made to the Member's estate under Rule 6.2.

If the Member dies between 12 months and 36 months after leaving Service the benefit will be equal to:

6.3.1 the Basic Benefit reduced by $1/24$ per complete month starting with month 13 after leaving Service; less

6.3.2 the Basic Lump Sum paid on retirement.

If a Member dies before Retiring Age while receiving a Disability pension under Rule 5.2 (preserved benefits payable early on grounds of Disability), no lump sum death benefit will be payable under this Rule."

Pensions for Spouses, Civil Partners and Children

- 13** Rule 7.1 is deleted and replaced with the following:

"7.1 Pension for spouse or Civil Partner

If a Member dies leaving a surviving spouse or Civil Partner, the spouse or Civil Partner will receive a pension for life, calculated as described below.

Where the marriage took place or the Member formed the Civil Partnership after the Member started to receive a pension and within six months of the Member's death, the spouse or Civil Partner will not be entitled to a pension, unless the Board in its discretion otherwise decides.

The Board may at its discretion discontinue a pension payable to a spouse or Civil Partner (and, if it sees fit, a Pensionable Child as defined below) if the spouse or Civil Partner remarries or forms a civil partnership. If it does so, it may at its discretion resume the pension or pensions concerned."

- 14** Rule 7.2 deleted and replaced with the following:

"7.2 Member dies in Service

If the Member dies in Service before Retiring Age, the pension payable to a spouse or Civil Partner will be two-thirds of the Disability pension the Member would have received under Rule 5.1 (Disability retirement pension) if he or she had retired on account of Disability on the day of his or her death.

If the Member dies in Service on or after Retiring Age, the pension payable to a spouse or Civil Partner will be equal to two-thirds of the pension that the Member would have received if he or she had retired on the day of his or her death."

- 15** Rule 7.3 is deleted and replaced with the following:

"7.3 Member dies after pension starts

If the Member dies after starting to receive a pension, the pension payable to a spouse or Civil Partner will be equal to two thirds of the pension payable to the Member at the date of death or, if the Member gave up the pension for a lump sum or on retirement, two thirds of the pension that would have been payable if the Member had not done so."

- 16** Rule 7.4 is deleted and replaced with the following:

"7.4 Member dies with a preserved pension that has not started

If the Member dies before Retiring Age with a preserved pension that has not started, the pension payable to a spouse or Civil Partner will be two-thirds of the pension the Member would have received under Rule 5.2 (Preserved benefits payable early on grounds of Disability) if he or she had retired on account of Disability on the date of his or her death."

- 17** Rule 7.5 is amended so that the definition of "**Pensionable Children**" reads:

"**Pensionable Children**" are (i) the Member's children, (ii) children legally adopted by the Member, (iii) the Member's step children and (iv) any children of the Member's Civil Partner (provided, in the case of (iii) and (iv) above, that they are financially dependent on the Member at the date of the Member's death). These children remain Pensionable Children for so long as they are under age 18. If a child is over 18, but is still in full-time

education approved by the Board, the child will continue to be a Pensionable Child until full-time education ceases or until the child's 23rd birthday, whichever is earlier."

- 18** Rule 7.5 is amended to add the following as a new paragraph after the definition of "Pensionable Children":

"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."

- 19** Rule 7.5 is further amended by deleting the last five paragraphs and replacing them with the following:

"The children's pension will be based on the number of Pensionable Children from time to time, and the Member's pension by reference to which a pension for the Member's spouse or Civil Partner would be calculated as described in Rule 7.2, 7.3 or 7.4 (as appropriate).

If a pension is payable to the Member's spouse or Civil Partner and there is one Pensionable Child, the children's pension will be equal to one-sixth of the relevant Member's pension. If there are two or more Pensionable Children, the children's pension will be equal to one-third of the relevant Member's pension.

If no pension is payable to the Member's spouse or Civil Partner and there are three Pensionable Children or fewer, the children's pension will be equal to one-third of the relevant Member's pension for each Pensionable Child. If there are more than three Pensionable Children, the children's pension will be equal to the relevant Member's pension.

The children's pension will be divided equally between the Pensionable Children."

For the avoidance of doubt, the last paragraph of Rule 7.5 is deleted.

- 20** Rule 7.6 is deleted.

General Rules about benefits

- 21** Rule 12.3 is deleted and replaced with the following:

"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."

22 Rule 12.4 is deleted and replaced with the following:

"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."

23 Rule 12.6 is deleted and replaced with the following:

"12.6 Contracting-out

Prior to 1 January 2011, the Scheme was a salary related contracted-out scheme. With effect from 1 January 2011, the Scheme ceases to be a salary related contracted-out scheme.

The Board will operate the Scheme in accordance with the Contracting-out Laws applicable to a former salary related contracted-out scheme. These Rules will be treated as including Rules to same effect as any rule that must be included for the Scheme to be contracted-out in relation to a Member's Service prior to 1 January 2011.

This Rule overrides all other provisions of the Scheme, except those that are in accordance with the Pension Schemes Act 1993."

- 24** Rule 12.7 is deleted and replaced with the following:

"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."

- 25** Rule 13 is deleted and replaced with the following:

"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."

- 26** Rule 14.2 is deleted and replaced with the following:

"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.”

27 Rule 14.4 is deleted and replaced with the following:

“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.”

28 Rule 15.3 is deleted and replaced with the following:

“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.”

29 Rule 16 is deleted and replaced with the following:

“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."

The common seal of
The Church of England Pensions Board
was put on this deed in the presence of:

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M. Farnell

Secretary