

GENERAL SYNOD**TRUST DEED AND RULES
OF THE CHURCH OF ENGLAND FUNDED PENSION SCHEME****Explanatory Notes**

The new Trust Deed and Rules consolidate the Trust Deed and Rules of the Church of England Funded Pension Scheme, together with amendments that have previously been made to them with the approval of the General Synod, in a single instrument with minor updates and drafting improvements.

1. The Church of England Funded Pension Scheme ('the Scheme') is the pension scheme under which stipendiary clergy accrue benefits in respect of pensionable service carried out by them from 1st January 1998.
2. The Scheme was established, pursuant to section 3 of the Pensions Measure 1997 ('the 1997 Measure'), by a trust deed made by the Church of England Pensions Board ('the Board') on 5 December 1997. Rules for the Scheme were made by the Board on the same date.
3. The trust deed and Rules have been amended by the Board on several occasions. Those amendments have been made with the approval of the General Synod, as required by the trust deed and by section 3 of the 1997 Measure (now repealed and replaced by the Church of England Pensions Measure 2018). As a result, the trust deed and Rules currently comprise numerous separate instruments (i.e. the original trust deed and Rules and the subsequent amending deeds and amendment Rules). That is not entirely satisfactory as it does not enable the trustees of the Scheme or its members to obtain ready access to the definitive legal text of the provisions under which the Scheme operates. A working text of the Rules has been available for several years but that text does not constitute the legal basis of the scheme.
4. The Board has accordingly decided to consolidate the trust deed and Rules, together with the various sets of amendments that have been made to them, in a single instrument. In doing so, the opportunity has been taken to update various references and to improve the drafting. The Annex to these explanatory notes, which has been provided by the Board's external legal advisers, provides a commentary on those updates and improvements.

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The Church of England Funded Pensions Scheme (“CEFPS”) Commentary of changes to the Trust Deed and Rules

The current trust deed and rules of the CEFPS is made up of the original trust deed with numerous amending deeds. These have now been consolidated into one document, the revised Trust Deed and Rules. The table below provides a commentary to all changes included in the revised Trust Deed and Rules when compared against the existing documentation. These changes are largely to reflect statutory updates and the passage of time.

The governance provisions in the revised Trust Deed and Rules apply to the CEFPS, together with the relevant Measures, from their effective date. The benefit provisions for those members who left pensionable service before the effective date of the revised Trust Deed and Rules are governed by the Trust Deed and Rules applicable at the date they left pensionable service. For all members in pensionable service as at the effective date, benefits are determined in accordance with the revised Trust Deed and Rules.

Clause/Rule Reference	Summary of change	Comment
Old Clause 1	Incorporated into the introduction to the revised Trust Deed to describe the establishment of the CEFPS.	To record the establishment of the CEFPS under the 1997 Measure and its continuation under the 2018 Measure.
Old Clause 2	Recital provisions.	Explanation of the mechanics of the revised Trust Deed and Rules and its operation going forward.
Clause 2	Deletion of “ <i>hereby constitutes and</i> ”.	The revised Trust Deed and Rules continue the CEFPS. The original trust deed remains the document that constituted it.
Clause 4.1	Refer to “ <i>Member</i> ”. Delete reference to “ <i>the Clergy Pension (Amendment) Measure 1972 (the “Regulations”)</i> ”.	Use of defined term. Drafting tidy up. To reflect consolidation of the relevant Church of England legislation into the Pensions Measure 2018.
Clause 4.3	Replaces “ <i>Regulations</i> ” with “ <i>Measures</i> ”.	To reflect consolidation of the relevant Church of England legislation into the Pensions Measure 2018.
Clause 4.5	Replace description of “ <i>Responsible Body</i> ” with a cross reference to the 2018 Measure.	This has been suggested by the Church House Legal Office. It has the advantage of keeping the definition in the Trust Deed and

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		Rules and the Measure completely aligned. Any alterations to the 2018 Measure on this point will be picked up automatically in the Trust Deed and Rules. The disadvantage is that the user of the Trust Deed and Rules will have to refer to 2 documents. Detailed analysis of the meaning of Responsible Body isn't something that needs to be done by the administration team so we think this disadvantage is manageable and reasonable for the Board to accept.
Rule 1.1	The definition of "Actuary" has changed from: <i>"a fellow of the Institute of Actuaries or of the Faculty of Actuaries in Scotland"</i> to: <i>"a fellow of the Institute and Faculty of Actuaries"</i> .	To reflect the merger of the actuarial governing bodies and updated name.
Rule 1.1	The definition of "Church of England Pension Scheme" has been changed from: <i>"the provisions relating to pensions for clerks, deaconesses and licensed lay workers contained in the Church of England Pensions Regulations 1998 and in rules made under section 3 of the Clergy Pensions (Amendment) Measure 1967, and known as the Church of England Pension Scheme"</i> to: <i>"the scheme of that name which continues to have effect under section 1(1)(b) of the Measure and consisting of the provisions set out in Part 3 of the Measure"</i> .	To reflect consolidation of the relevant Church of England legislation into the Pensions Measure 2018.
Rule 1.1	The definition of fund has changed to refer to Clause 3 of the Trust Deed.	The original trust created the Fund. As these revised Trust Deed and Rules are a continuation of the Fund, this is an update to reflect the passage of time only.
Rule 1.1	A new definition of the "Rules" has been inserted into the Definitions	The definition is included in the original trust deed. This is an addition for ease of reference only.

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	clause, which is defined as “ <i>these rules scheduled to the Trust Deed</i> ”.	
Rule 1.1	Deletion of “ <i>established by the Trust Deed</i> ”.	The original trust deed established the Scheme. As these revised Trust Deed and Rules are a continuation of the Scheme, this is an update to reflect the passage of time only.
Rule 1.1	The definition for “Transfer Value Laws” now refers to the laws as to transfer values set out in Chapter 1 (rather than Chapter IV) of Part 47A (rather than Part IV) of the Pension Schemes Act 1993.	To reflect statutory update.
Rule 4.1	Change of note to refer to “ <i>At the date of these Rules</i> ”.	Update only. This is a note to explain the operation of the statutory revaluation laws as applicable at the date of the Rules.
Rule 6	Renumbering.	This provision was an addition to the original documentation. At the time of its inclusion, it was included in a manner not to require a full update of numbering. This is the appropriate opportunity to update numbering throughout the revised Rules.
Rule 7.4	The payment of any lump sum death benefit by the Board will now be within two years after being told of the Member’s death, to any person or people chosen by the Board in its discretion, rather than within two years of the Member’s Death itself.	To reflect an update in pensions tax legislation.
Rule 10	In Rule 10 (previously rule 9), the references to maternity, paternity and adoption leave, and to paternity and shared parental leave, mean the same as in the Employment Rights Act 1996. These terms are now used through the Rule.	To reflect updates in statutory requirements.
Rule 13.2	With regards to tax allowance charges for members, the Board may now reduce any benefit in respect of which a lifetime allowance charge or annual charge arises, rather than just when a lifetime allowance charge arises.	This is to enable the Board to assist members with any annual allowance changes now that the annual allowance is at a lower level.

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Rule 15.5	<i>“The Reorganisation Schemes (Compensation) Rules 2011”.</i>	<i>Note: Although showing as a change in “red-line” comparison version of the Trust Deed and Rules, this rule was incorporated into the current trust deed and rules in 2012 (just not reflected in the “working draft” document used as a base for the “red-line”).</i>
Rule 17	The rules on Members who left Service before 1 January 2011, has changed to those who left service before [●] 2020. This will be the effective date of the revised Trust Deed and Rules.	This Rule records that the governance provisions in the revised Trust Deed and Rules apply to the CEFPS from their effective date. The benefit provisions for those members who left pensionable service before the effective date of the revised Trust Deed and Rules are governed by the Trust Deed and Rules applicable at the date they left pensionable service. For all members in pensionable service as at the effective date, benefits are determined in accordance with the revised Trust Deed and Rules.
Rule 21	<i>“Employer Debt Laws”</i>	<i>Note: Although showing as a change in “red-line” comparison version of the revised Trust Deed and Rules, this rule was incorporated into the current trust deed and rules in 2012 (just not reflected in the “working draft” document used as a base for the “red-line”).</i>