

GENERAL SYNOD

CHURCH OF ENGLAND PENSIONS (APPLICATION OF CAPITAL FUNDS) MEASURE

Explanatory Notes

The draft Measure extends the period during which the Church Commissioners may resort to capital to meet their obligations in respect of certain pensions for a further seven years, to 31st December 2032.

Background and summary

1. The draft Church of England Pensions (Application of Capital Funds) Measure extends the period during which the Church Commissioners may resort to capital to meet their obligations in respect of certain clergy pensions and certain pensions for Commissioners' former staff for a further seven years, to 31st December 2032.
2. The Church Commissioners are responsible, under section 31 of the Church of England Pensions Measure 2018, for meeting the cost of clergy pensions payable in respect of service carried out before 1st January 1998¹ (i.e. under "the past service scheme"). The Commissioners are also responsible, under section 17 of the Church Commissioners Measure 1947, for meeting the cost of pensions payable to former Commissioners' staff under the Church Commissioners Superannuation Scheme which, like the past service scheme for clergy, relates to service carried out before 1st January 1998. These provisions were originally contained in the Pensions Measure 1997 which was repealed and consolidated in the Church of England Pensions Measure 2018.
3. When the 1997 Measure was passed, it gave the Church Commissioners a power to apply capital funds for the purpose of meeting their liability in respect of the past service scheme and the Superannuation Scheme, but only for a period of not more than seven years from the commencement of that Measure in 1998. That period has subsequently been extended by a series of further Measures, passed in 2003, 2009 and 2015, in each case by a further seven years.
4. The original version of the 2003 Measure submitted to the Ecclesiastical Committee in January 2002 provided, in addition to the renewal of the power to apply capital, for the possibility of an unlimited number of further extensions of the power for successive periods of seven years, to be achieved by Orders made by the Commissioners. Any such Order would have been laid before the General Synod for approval and then laid before Parliament as a statutory instrument under the negative resolution procedure.
5. The Ecclesiastical Committee was willing to find the extension of the power expedient but it was opposed to any future extensions of the period otherwise than by further Measure because of Parliament's wish to retain control over the application of the Commissioners' capital funds due to the origin of some of those

¹ Clergy pensions in respect of service carried out from 1st January 1998 are covered by the Church of England Funded Pension Scheme which is funded by way of contributions from the "responsible body". In the case of stipendiary parochial clergy, the responsible body is the diocesan board of finance.

funds. The original version of the 2003 Measure was therefore withdrawn in the light of the Ecclesiastical Committee's expressed concern and taken back to the General Synod with the relevant provisions removed. The 2003 Measure was then brought back to the Ecclesiastical Committee in July 2002, on which occasion it found the Measure to be expedient.²

6. In the light of the view expressed by the Ecclesiastical Committee in 2002, all subsequent extensions of the power to resort to capital have been made by specific Measures extending the power by seven years at a time. The same approach is adopted with the current draft Measure.
7. The annex to these Notes shows the text of enactments as proposed to be amended by the provisions of the draft Measure.

Procedural stages

8. Standing Order 48(1) provides for Measures and Canons to be considered by the General Synod on the following successive stages:
 - First Consideration (see SOs 51 and 52)
 - Revision Committee (see SOs 54 to 57)
 - **Revision (see SOs 53 and 58 to 60)**
 - **Final Drafting (see SO 61)**
 - **Final Approval (see SO 64).**
9. The draft Measure was considered by the General Synod at the July 2022 group of sessions on the First Consideration Stage.
10. The Revision Committee Stage took place in October 2022.
11. There were no submissions to the Revision Committee from members of the Synod and the Steering Committee did not propose any amendments to the Measure.
12. Pursuant to SO 57(7), the Clerk has been informed that no proposals for amendment were received and that there are no other matters for the Revision Committee to report. There is, therefore, no report from the Revision Committee.
13. The **Revision Stage** in Full Synod, and the **Final Drafting and Final Approval Stages** for the Measure are being taken at the February 2023 group of sessions.

Notes on clauses

Clause 1 Extensions of period of capital payments

14. Clause 1(1) amends section 31 of the Church of England Pensions Measure 2018 so that the period during which the Church Commissioners may apply capital funds to meeting the cost of pensions under the past service scheme expires on 31 December 2032 instead of on 31st December 2025.
15. Clause 1(2) makes an equivalent amendment to section 17 of the Church Commissioners Measure 1947 in respect of pensions payable under the Church Commissioners Superannuation Scheme, so far as attributable to service prior to 1st January 1998.

² Comments and Explanations annexed to the 226th Report of the Ecclesiastical Committee, page 6, paragraph 5; available at <https://publications.parliament.uk/pa/jt200809/jtselect/jtecc/36ii/9780104014394.pdf>.

Clause 2 Short title, commencement, extent and application

44. Clause 17 provides for the citation of the Measure, its commencement, its territorial extent and its application.

The Legal Office
Church House, Westminster

October 2022

The text of enactments as amended

This annex shows the text of enactments as proposed to be amended by the provisions of the draft Measure.

Amendment to section 31(4) of the Church of England Pensions Measure 2018

31 Liability of Church Commissioners

(4) The Commissioners may, until 31 December ~~2025~~ **2032**, apply capital funds for the purpose of meeting the cost of any pension or lump sum due to be paid under the past service scheme; and “capital funds” means funds held by the Commissioners the income of which forms part of their general fund.

Amendment to section 17(4) of the Church Commissioners Measure 1947

17 Provisions as to superannuation

(4) The Commissioners may, until 31 December ~~2025~~ **2032**, apply capital funds for meeting the cost of any pension or lump sum payable under the Church Commissioners Superannuation Scheme in so far as it is attributable to a period of service before 1 January 1998.

(5) In subsection (4), “capital funds” means funds held by the Commissioners the income of which forms part of their general fund.