

**GENERAL SYNOD**  
**LEGISLATIVE COMMITTEE**  
**Pensions (Pre-consolidation) Measure**  
**Comments and explanations**

The Pensions (Pre-consolidation) Measure makes amendments to various Measures and Regulations as the first stage in a process of consolidating the large number of Measures and Regulations which deal with Church of England pensions.

### **Introduction**

1. The Legislative Committee of the General Synod, to which the Measure entitled Pensions (Pre-consolidation) Measure ('the Measure') has been referred, has the honour to submit the Measure to the Ecclesiastical Committee with these Comments and Explanations.

### *Summary of the Measure*

2. The draft Pensions (Pre-consolidation) Measure makes amendments to various Measures and Regulations as the first stage in a process of consolidating the large number of Measures and Regulations which deal with Church of England pensions.
3. Consolidation Measures restate the statutory provisions contained in several Acts and/or Measures in a single Measure, usually with 'corrections and minor improvements'. As well as drawing all the relevant statute law in a particular area into a single Measure, they provide an opportunity to present it in a more helpful way.
4. It is often necessary, as a preparatory step, to make some pre-consolidation changes to put the law into a fit state to enable it to be consolidated. As consolidation Measures themselves do not change the law, the General Synod's Standing Orders provide that once introduced, a consolidation Measure can pass through the Synod quickly, normally by-passing the Revision Committee and Revision Stages. But any pre-consolidation amendments to an Act or Measure can currently only be made by Measure under the normal procedure.
5. Two Measures are therefore required to consolidate the pensions legislation. The draft Pensions (Pre-consolidation) Measure represents the first stage of the process. It will be followed in due course by a further Measure and a set of Regulations which will, between them, consolidate the relevant legislation.

### **The provisions of the Measure**

#### *Clause 1 and the Schedule*

6. Clause 1 introduces the Schedule which contains the pre-consolidation amendments.
7. Paragraphs 1 to 7 of the Schedule make amendments to the Clergy Pensions Measure 1961.

8. Paragraph 2 inserts a new section 18A into the 1961 Measure to enable the Pensions Board to transfer to the funded scheme (i.e. the pension scheme which covers pensionable service by clergy carried out after 31 December 1997) the sums standing to the credit of the Clergy (Widows and Dependants) Pension Fund. The only benefits now payable from that Fund are pensions for the spouses or dependants of clergy who paid contributions into the Fund prior to 1 December 1988. The sums now standing to the credit of the Fund significantly exceed the amount required to meet the Pensions Board's obligations to the beneficiaries of the Fund. Transferring its funds to the funded scheme, will mean that any excess sums can be applied to the pensions for clergy and their dependents that are payable under the funded scheme.
9. The Board's obligations to the beneficiaries of the Clergy (Widows and Dependants) Pension Fund will continue. The Board will be required either to make the payments due to those beneficiaries out of the funded scheme or to make arrangements for securing alternative provision for the payments to be made (for example, through an insurance policy).
10. The amendments made by paragraph 3 clarify the Board's powers in relation to the employment of staff.
11. Paragraph 4 inserts a provision in section 26 of the 1961 Measure which makes it clear that the Board's power to provide homes for retired clergy and church workers etc. includes a power to provide nursing care to residents in those homes.
12. Paragraph 5 clarifies the position as to the funds in respect of which the Board's investment powers apply.
13. Paragraph 6 amends section 34 of the Clergy Pensions Measure 1961 by inserting a new provision which is consequential on the main amendment made by paragraph 2 of the Schedule (see above). If the Clergy (Widows and Dependants) Pension Fund is transferred to the funded scheme as provided for in paragraph 2 there will no longer be any need for it to be valued separately. The amendment made by paragraph 6 provides that, following a transfer, the requirement for a separate valuation of the Widows and Dependants Fund contained in section 34 of the 1961 Measure will cease to apply; instead the transferred fund will be valued as part of the regular valuation of the funded scheme.
14. Paragraph 7 removes unnecessary provision from section 38 of the 1961 Measure which is concerned with the determination by the Board of questions relating to pensions etc. A provision which requires questions to be determined at meetings specially convened for the purpose is removed, with the effect that the Board will be able to determine questions at their regular meetings if they wish to do so. A right of appeal to the High Court from a decision of the Board is removed on the basis that this provision pre-dates the creation of the Pensions Ombudsman and is now unnecessary. A provision which disapplies the Arbitration Act in the case of the Board's determination of questions is removed on the basis that such a determination would not come within the provisions of the Arbitration Act in any event and that the provision is therefore unnecessary. Paragraph 16 makes equivalent amendments to regulation 32 of the Church of England Pensions Regulations 1988.
15. Paragraph 8 updates the definition of "child" in the 1961 Measure.
16. Paragraph 9 amends section 3 of the Clergy Pensions (Amendment) Measure 1967 to remove a misleading provision which suggests that rules for making lump sum payments are capable of amendment by the General Synod; such rules – which are made by the Board – require the Synod's approval but the Synod does not have a power to amend them.

Paragraph 18 makes an equivalent amendment to section 2 of the Pensions Measure 1997 in relation to the rules of the funded scheme.

17. Paragraphs 10 to 16 amend the Church of England Pensions Regulations 1988, which regulate the clergy pension scheme for service carried out prior to 1 January 1998.
18. Paragraph 11 removes provisions from the Regulations which require retired clergy to make applications for pensions under the past service scheme. In practice, applications are not made as the Board is aware of when clergy retire and become eligible to receive pensions.
19. Paragraph 12 updates provisions in Part 3 of the 1988 Regulations concerned with the commutation of widows'/widowers' and children's pensions for capital sums so that those provisions are in conformity with current pensions law.
20. Paragraphs 13 and 14 make minor amendments of an administrative nature.
21. Paragraph 15 removes the requirement for the Board to notify the Court of Protection when it is proposing to exercise its powers to pay the pension of a person who lacks mental capacity to the institution which has the care of that person or to that person's family. Such a requirement is not found in modern pension schemes which leave such decisions to the trustees.
22. Paragraph 16 makes amendments to the 1988 Regulations equivalent to those that are made by paragraph 7 to the 1961 Measure (see above).
23. Paragraphs 17 and 18 make amendments to the Pensions Measure 1997 equivalent to those that are made by paragraph 9 to the 1967 Measure (see above).
24. Paragraph 19 amends the Pensions Measure 1997 to make it clear that the Church Commissioners are the responsible body for paying contributions to the Board in respect of suffragan bishops.
25. Paragraph 20 removes the requirement contained in regulation 9 of the Church of England Pensions Regulations 1997 that the Board consult the Archbishops before determining the amount of contributions to be made by the responsible bodies to the Board in respect of the clergy funded pensions scheme. The Board will still be required to consult the responsible bodies before determining those amounts.

#### *Clause 2*

26. Clause 2 provides for the short title, commencement and territorial extent of the Measure.

### **Proceedings in the General Synod**

#### *First Consideration*

27. The Measure was introduced into the Synod for First Consideration in July 2016. The Business Committee determined, under the Synod's standing orders, that the Measure did not need to be debated. The effect of that determination was that the Synod was deemed to have given first consideration to the Measure unless 25 members gave notice that they wished it to be debated. No such notice was given and the Measure therefore stood committed to a Revision Committee.

#### *Revision*

28. The Revision Committee did not receive any submissions from members on the draft Measure.

- 29. The Committee made one amendment to the draft Measure to insert what is now paragraph 6 in the Schedule to the Measure.
- 30. The Revision Committee reported to the Synod in February 2017 and the Measure was then considered on the Revision Stage in full Synod. The Synod did not make any further amendments to the draft Measure at that stage.

*Final drafting*

- 31. One drafting amendment was made to the Measure at the Final Drafting stage which was taken at the July 2017 group of sessions of the Synod. That amendment inserted a new subsection (7) in clause 2 to remove an uncertainty as to the application of the amendments made by the Measure to the Diocese in Europe.

*Final approval*

- 32. The Final Approval stage immediately followed the Final Drafting stage. The Measure received the approval of all three Houses.
- 33. The voting on the motion for the final approval of the Measure was as follows—

	In favour	Against
Bishops	21	0
Clergy	109	0
Laity	123	0

**Conclusion**

- 34. The Legislative Committee invites the Ecclesiastical Committee to issue a favourable report on the Measure. Should the Ecclesiastical Committee require any further information or explanation, the Legislative Committee stands ready to provide it.

On behalf of the Legislative Committee  
*G Tattersall*  
 Deputy Chair  
 1 November 2017