



Jersey

CLERGY PENSIONS (CHANNEL ISLANDS) ORDER 1978

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APPENDIX



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CLERGY PENSIONS (CHANNEL ISLANDS) ORDER 1978

Jersey Order in Council 5/1978

CLERGY PENSIONS (CHANNEL ISLANDS) ORDER 1978.

(Registered on the 30th day of June, 1978).

At the Court at Buckingham Palace.

31st May, 1978.

PRESENT

The Queen's Most Excellent Majesty in Council.

WHEREAS THE BISHOP OF WINCHESTER has, in accordance with the Schedule to the Channel Islands (Church Legislation) Measure 1931, as amended by section 2 of the Channel Islands (Church Legislation) Measure 1931 (Amendment) Measure 1957,¹ settled the Scheme set out in the Schedule to this Order for applying the Clergy Pensions (Amendment) Measure 1969 and the Clergy Pensions (Amendment) Measure 1972 to the Channel Islands, and whereas the procedure set out in the Schedule to the first-mentioned Measure has been followed:

NOW, THEREFORE, HER MAJESTY, in pursuance of section 2 of the Channel Islands (Church Legislation) Measure 1931, as amended by section 1 of the Channel Islands (Church Legislation) Measure 1931 (Amendment) Measure 1957,⁴ and of section 49 of the Clergy Pensions Measure 1961⁵ and section 7(2) of the Clergy Pensions (Amendment) Measure 1972, is pleased, by and with the advice of Her Privy Council, to order and direct as follows: -

1. The Scheme set out in the Schedule to this Order is hereby confirmed.

¹ Tome VII, page 37.

⁴ Tome VII, page 36.

⁵ Volume 1963–1965, page 86.

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2. The Clergy Pensions (Amendment) Measure 1969 and the Clergy Pensions (Amendment) Measure 1972 shall apply to the Channel Islands in accordance with the provisions of the said Scheme.

3. This Order may be cited as the Clergy Pensions (Channel Islands) Order 1978 and shall come into operation on 1st July 1978.

N.E LEIGH,

Clerk of the Privy Council.

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SCHEDULE

A SCHEME

Prepared by the Bishop of Winchester in pursuance of the Channel Islands (Church Legislation) Measures 1931 and 1957⁹ for applying the Clergy Pensions (Amendment) Measure 1969, and the Clergy Pensions (Amendment) Measure 1972, to the Channel Islands.

PREAMBLE

Whereas by section 7 of the Clergy Pensions (Amendment) Measure 1972 it is provided that that Measure and the Clergy Pensions (Amendment) Measure 1969¹⁰ shall be construed as one with the Clergy Pensions Measure 1961;¹³

And whereas by section 49 of that Measure¹⁴ it is provided that the Measure may be applied to the Channel Islands as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957⁹ in accordance with the provisions of those Measures:

And whereas the Bishop of Winchester has come to the conclusion that the Clergy Pensions (Amendment) Measures 1969 and 1972 ought to be applied to the Channel Islands and has in accordance with the provisions of paragraphs 1, 2 and 3 of the Schedule to the Channel Islands (Church Legislation) Measure 1931¹⁶ prepared the following Scheme for that purpose:

SCHEME

The Clergy Pensions (Amendment) Measure 1969¹⁰ and the Clergy Pensions (Amendment) Measure 1972¹¹ shall apply to the Channel Islands.

Any reference in this Scheme to the Channel Islands or either of them shall have the same meaning as has such a reference in the Channel Islands (Church Legislation) Measure 1931.⁹

⁹ Tome VII, page 36.

¹³ Volume 1963–1965, page 50.

¹⁴ Volume 1963–1965, page 86.

¹⁶ Tome VII, page 37.

Clergy Pensions (Amendment) Measure 1969.**(1969 No. 1)**

A MEASURE passed by the National Assembly of the Church of England to amend the Clergy Pensions Measure 1961 in respect of the entitlement to pension and rate of pension of clerks in Holy Orders who retire before the retiring age.

[25th July 1969]

AMENDMENT OF CLERGY PENSIONS MEASURE 1961 IN RESPECT OF CLERKS
RETIRING BEFORE THE RETIRING AGE

1. Section 1(1)(c) of the Clergy Pensions Measure 1961 and Part III of Schedule 1 to that Measure (which relate to entitlement to pension and rate of pension of clerks in Holy Orders retiring before the retiring age)¹⁷ shall each be amended by substituting for the words “but not more than five years before he would have attained that age” the words “but not before attaining pensionable age within the meaning of the enactments relating to national insurance as for the time in force”.

SHORT TITLE AND CITATION

2.-(1) This Measure may be cited as the Clergy Pensions (Amendment) Measure 1969.

(2) The Clergy Pensions Measure 1961,¹⁸ the Clergy Pensions (Amendment) Measure 1967¹⁹ and this Measure may be cited together as the Clergy Pensions Measures 1961 to 1969.

¹⁷ Volume 1963–1965, pages 50 and 87.

¹⁸ Volume 1963–1965, page 50.

¹⁹ Volume 1968–1969, page 99.

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Clergy Pensions (Amendment) Measure 1972.

(1972 No. 5)

A MEASURE passed by the General Synod of the Church of England to Amend the Clergy Pensions Measures 1961 to 1969.

[9th August 1972]

ADDED PERIOD OF PENSIONABLE SERVICE

1.-(1) Where a clerk retires on or after attaining the retiring age, having performed a qualifying period of pensionable service specified in the following table, that qualifying period shall be deemed, for the purposes of the Clergy Pensions Measures 1961 to 1969 and any rules made thereunder, to be increased by the additional period therein specified in respect of that qualifying period: -

| <i>Qualifying Period</i> | <i>Additional Period</i> |
|--|--------------------------|
| Period of not less than 37 years | 3 years |
| Period of less than 37 years but not less than 33½ years | 2 years |
| Period of less than 33½ years but not less than 30 years | 1 year |

(2) For the purpose of –

- (a) ascertaining under Part II of Schedule 1 to the principal Measure²¹ the rate of pension to which a clerk who retires under the retiring age by reason of infirmity would have been entitled in the circumstances therein mentioned;
- (b) ascertaining under section 10(1)(b) of the principal Measure²² the pension to which a clerk who dies when not in receipt of a pension would have been entitled in the circumstances therein mentioned;

account shall be taken of any additional period of pensionable service that would have been added by virtue of the preceding subsection.

(3) This section shall apply in the case of clerks who retire or die on or after the date of the passing of this Measure, but not those who retire or die before that date.

RATES OF PENSION

2.-(1) For the purposes of section 2(1) of the principal Measure²³ (which enables the Commissioners to give directions for increasing the rates of pension payable generally or payable to any class of persons) the expression “class of persons” shall not be limited to the classes for which different rates are prescribed under section 1 and Schedule 1 of the principal Measure,²⁴ but shall be construed as including any description of persons, and in particular

²¹ Volume 1963-1965, page 87.

²² Volume 1963-1965, page 58.

²³ Volume 1963-1965, page 52.

²⁴ Volume 1963-1965, pages 50 and 86.

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persons described by reference to the time when they became or become entitled to pensions under the principal Measure.

Any directions given by virtue of this subsection within six months after the passing of this Measure may provide that the directions shall have effect as from a date before the passing of this Measure but not before the 1st April 1972.

(2) In section 2(3) of the principal Measure²⁵ (which provides for the payment of a supplementary pension to bring the income of a retired clerk up to a yearly rate determined by the Board with the concurrence of the Commissioners), for the words “shall authorise the Commissioners to pay to that clerk such supplementary pension as will bring his total income up to that yearly rate” there shall be substituted the words “may authorise the Commissioners to pay to that clerk such supplementary pension, not exceeding the amount needed to bring his total income up to that yearly rate, as the Board may determine in accordance with general directions of the Commissioners”.

(3) Where a clerk is in receipt of a supplementary pension at the passing of this Measure, the Board shall not reduce that pension below the rate at which it would have been if section 2(3) had remained in its previous form and the yearly rate of income last determined thereunder before the passing of this Measure had remained in force.

MEDICAL REVIEW IN CASES OF DISABILITY PENSIONS

3.-(1) A decision of the Board under section 3 of the principal Measure²³ entitling a clerk to a pension on the ground that he has become incapable through infirmity of performing the duties of his office, shall be made subject to a condition that further medical evidence may subsequently be required by the Board from time to time as they may direct.

(2) If the clerk fails to comply with such a condition or the Board are satisfied after considering further medical evidence that the clerk has become capable of performing pensionable service, they may suspend or reduce the pension as they think fit:

Provided that, if subsequently they are satisfied after considering further medical evidence that he is incapable through infirmity of performing pensionable service, he shall be deemed to have retired again and section 4(3) of the principal Measure²⁵ shall apply as it applies on the second retirement of a clerk whose pension is suspended or reduced under that section.

(3) The right of appeal under section 3(2) of the principal Measure²⁶ shall extend to any decision of the Board to suspend or reduce a pension under this section.

PENSIONS FOR WIDOWS

4.-(1) Section 10(1) of the principal Measure²⁷ shall be amended as follows: -

(a) after the words “to whom he was married for not less than five years” there shall be inserted the words “and (in the case of a retired clerk) to whom he was married before his retirement, and who was being maintained by him at the time of his death”;

(b) for the proviso there shall be substituted the following proviso: -

²⁵ Volume 1963-1965, page 53.

²⁶ Volume 1963-1965, page 52.

²⁷ Volume 1963-1965, page 58.

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“Provided that the Board may if they think fit –

- (i) in exceptional circumstances grant a pension to a widow notwithstanding that she was married for less than five years, or was not being maintained by her husband at the time of his death, or that her husband had performed less than ten years’ pensionable service;
- (ii) in the special circumstances of a particular case, continue the payment of a pension to a widow notwithstanding her re-marriage or resume the payment to a widow of a pension terminated on her re-marriage, whether before or after the passing of this Measure.

(2) The amendments made by the preceding subsection, other than paragraph (ii) of the new proviso, shall not affect any widow who is in receipt of a pension at the passing of this Measure.

(3) Where directions given by virtue of section 2(1) of this Measure have effect as from a date before the passing of this Measure, and a clerk to whom the directions are or would have been applicable dies on or after the said date and before receiving the increased pension payable in accordance with the directions, he shall be deemed for the purpose of calculating his widow’s pension under the said section 10(1) of the principal Measure²⁸ to have been in receipt of that increased pension at the time of his death.

(4) The power of the Commissioners under section 10(2) of the principal Measure²⁸ to give directions for increasing the rate of pension payable to widows under that section shall include power to give such directions in respect of a class or description of widows, and in particular widows described by reference to the time of their husband’s retirement or death.

(5) The following new sub-section shall be inserted in section 10 of the principal Measure,²⁸ between sub-sections (2) and (3) thereof:

“(2A) The Commissioners may, at the request of the Board, authorise the Board to augment, by such sum as may be specified in the authorisation and during such period as may be so specified, the pension payable under this section to any individual widow”.

(6) Where a clerk dies after the passing of this Measure leaving a widow, and the clerk

(a) was transferred under section 41 or section 42 of the principal Measure²⁹ to the pensions scheme of any church to which section 41 applies or any authority mentioned in section 42; and

(b) before the transfer paid contributions under section 11 or section 14 of the principal Measure³⁰ or Part II of the Clergy Pensions Measure 1948,³¹ not being contributions in respect of which a repayment was made by the Board under section 1(4) of the Clergy Pensions (Amendment) Measure 1967³² or the said section 14, as the case may be;

²⁸ Volume 1963-1965, page 58.

²⁹ Volume 1963-1965, pages 81 and 82.

³⁰ Volume 1963-1965, pages 59 and 61.

³¹ Volume 1949-1950, page 161.

³² Volume 1968-1969, page 99.

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the Board shall grant to his widow in respect of those contributions a pension at such rate as an actuary may certify to be proper.

(7) Section 12 of the principal Measure³³ shall have effect, in relation to any widow who at the passing of this Measure is in receipt of a pension under that section or thereafter becomes entitled thereto, with the omission of the words “so long as she remains a widow”.

MINOR AMENDMENTS

5.-(1) Section 1(5) of the principal Measure³⁴ (which enables an interval not exceeding three months between two periods of pensionable service to be treated as pensionable service) shall be amended by inserting after the words “three months” the words “or such longer interval as the Board may in exceptional circumstances allow”.

(2) In section 4(2) of the principal Measure³⁵ (which empowers the Board to suspend or reduce the pension of a clerk who has not attained the retiring age) there shall be substituted for the words “the retiring age” the words “the age of seventy years”.

(3) In section 34(4) of the principal Measure³⁶ (which requires a valuation of the Clergy (Widows and Dependants) Pensions Fund to be made at the expiration of every period of five years from the 31st December 1964) for the words “at the expiration of every period of five years from that day” there shall be substituted the words “thereafter at intervals not exceeding five years”.

(4) The power of the Commissioners under section 44 of the principal Measure³⁷ to alter the rate of interest specified in any provision of the Measure shall include power, exercisable in accordance with that section, to determine the date as from which the altered rate is to have effect, which may be before the date of the determination.

POWER OF GENERAL SYNOD TO MAKE FURTHER PROVISION BY REGULATIONS FOR CLERGY PENSIONS

6.-(1) The General Synod may, by regulations approved by the Synod under this section, make further provision with respect to pensions for the clergy and their widows and dependants and for matters incidental or supplementary thereto.

(2) Such regulations may amend, replace and revoke any of the provisions of the Clergy Pensions Measures 1961 to 1969³⁸ and this Measure, except the provisions mentioned in the next following subsection:

Provided that regulations approved under this section for the purpose of consolidating the law relating to pensions for the clergy and their widows and dependants may include any such excepted provisions (other than this section) but neither those regulations nor any subsequent regulations shall alter the effect of any provisions so included.

(3) The provisions excepted from the last preceding subsection are Part III, section 38 and section 39 of the principal Measure,³⁹ section 4 of the Clergy Pensions (Amendment)

³³ Volume 1963-1965, page 60.

³⁴ Volume 1963-1965, page 50.

³⁵ Volume 1963-1965, page 53.

³⁶ Volume 1963-1965, page 75.

³⁷ Volume 1963-1965, page 83.

³⁸ Volume 1963-1965, page 50, Volume 1968-1969, page 99.

³⁹ Volume 1963-1965, pages 63, 78 and 79.

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Measure 1967⁴⁰ and this section, together with interpretation provisions of the principal Measure so far as they relate to the said Part III and the said sections; and references in the said Part III or the said sections to Part I or Part II of the principal Measure or to any section contained therein shall be construed as references, or as including references, to regulations approved under this section amending or replacing any of the provisions so referred to.

(4) All regulations submitted for the approval of the General Synod under this section shall be submitted by the Board with the concurrence of the Commissioners, and may be approved by the General Synod either with or without amendment.

(5) The Statutory Instruments Act 1946 shall apply to any regulations approved by the General Synod under this section as if they were a statutory instrument and were made when so approved, and as if this Measure were an Act providing that any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

CONSTRUCTION, INTERPRETATION AND CITATION

7.-(1) This Measure and the Clergy Pensions (Amendment) Measure 1969⁴¹ shall be construed as one with the principal Measure.⁴²

(2) In this Measure “the principal Measure” means the Clergy Pensions Measure 1961.⁴²

(3) This Measure may be cited as the Clergy Pensions (Amendment) Measure 1972, and the Clergy Pensions Measures 1961 to 1969 and this Measure may be cited together as the Clergy Pensions Measures 1961 to 1972.

⁴⁰ Volume 1968-1969, page 100.

⁴¹ Volume 1968-1969, page 99.

⁴² Volume 1963-1965, page 50