

**ELIZABETH II**



**1981 CHAPTER ii**

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Churches and Universities (Scotland) Widows' and Orphans' Fund (Amendment). [29th January 1981]

**W**HEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said 1936 c. 52. Order should be confirmed by Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation of Order in schedule.
2. This Act may be cited as the Churches and Universities (Scotland) Widows' and Orphans' Fund (Amendment) Order Confirmation Act 1981. Short title.

c. ii *Churches and Universities (Scotland) Widows' and Orphans' Fund (Amendment) Order Confirmation Act 1981*

## SCHEDULE

### CHURCHES AND UNIVERSITIES (SCOTLAND) WIDOWS' AND ORPHANS' FUND (AMENDMENT)

*Provisional Order to confer further powers on the Trustees of the Churches and Universities (Scotland) Widows' and Orphans' Fund; and for other purposes.*

1954 c. lvii. Whereas by the Churches and Universities (Scotland) Widows' and Orphans' Fund Order 1954 (hereinafter referred to as "the Order of 1954") the Trustees of the Churches and Universities (Scotland) Widows' and Orphans' Fund (hereinafter referred to as "the Trustees") were re-incorporated and the Churches and Universities (Scotland) Widows' and Orphans' Fund as constituted by the Churches and Universities (Scotland) Widows' and Orphans' Fund Order 1930 (which was repealed by the Order of 1954), was transferred to and vested in the Trustees:

1967 c. xv. And whereas by the Churches and Universities (Scotland) Widows' and Orphans' Fund (Amendment) Order 1967 (hereinafter referred to as "the Order of 1967") certain amendments were made to the provisions of the Order of 1954 in their application to certain professors:

1970 c. 24. And whereas by the Finance Act 1970 and subsequent enactments important changes with respect to occupational pension schemes have been enacted:

And whereas it is expedient that the Trustees should be authorised to modify or alter in certain respects the provisions of the Order of 1954 as amended by the Order of 1967:

And whereas it is expedient that the Trustees should be empowered to enlarge their powers as provided in this Order:

And whereas it is expedient that the other provisions contained in this Order should be enacted:

1936 c. 52. And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now therefore in pursuance of the powers contained in the said Act the Secretary of State orders as follows:—

Short title.

1. This Order may be cited as the Churches and Universities (Scotland) Widows' and Orphans' Fund (Amendment) Order 1980, and this Order and the Churches and Universities (Scotland) Widows' and Orphans' Fund Order 1954 and the Churches and Universities (Scotland) Widows' and Orphans' Fund (Amendment) Order 1967 may be cited together as the Churches and Universities (Scotland) Widows' and Orphans' Fund Orders 1954 to 1980.

*Churches and Universities (Scotland) Widows' and Orphans' Fund (Amendment) Order Confirmation Act 1981* c. ii

3

2. This Order shall be deemed to have effect from 6th April 1980, which date is hereinafter referred to as "the commencement of this Order". Commencement of Order.

3. In this Order unless there is something in the subject or context repugnant to such construction words and expressions to which meanings are assigned by the Order of 1954 and the Order of 1967 shall have the same respective meanings; and Interpretation.

"Act of 1970" means the Finance Act 1970; 1970 c. 24.

"Member" means any person on whose death a benefit may become payable out of the Fund other than a person already in receipt of a benefit from the Fund;

"Order of 1954" means the Churches and Universities (Scotland) Widows' and Orphans' Fund Order 1954; 1954 c. lvii.

"Order of 1967" means the Churches and Universities (Scotland) Widows' and Orphans' Fund (Amendment) Order 1967. 1967 c. xv.

4. The Regulations set forth in Schedule 1 to this Order shall be the Regulations of the Fund and the Trustees may from time to time make such alterations or additions to the same as may be expedient for the discharge of their duties under the Churches and Universities (Scotland) Widows' and Orphans' Fund Orders 1954 to 1980: Regulations.

Provided that such alterations or additions shall not be repugnant to the true intent and meaning of the said Orders and that all such alterations or additions shall be approved by at least three-fourths of the Trustees present at a meeting called for the purpose.

5. The Trustees shall have power—

Further powers of Trustees.

(a) in cases where the aggregate pension payable out of the Fund and all associated schemes does not exceed £52 per annum, or such other sum as the Commissioners of Inland Revenue may from time to time prescribe, to pay a cash sum as calculated by the Actuary in lieu of any annuity payable out of the Fund;

(b) to transfer the assets of the Fund representing the interest of a beneficiary of the Fund to any scheme approved under Chapter II of Part II of the Act of 1970 or approved for the purpose of this provision by the Commissioners of Inland Revenue.

6. No person (other than an ordained minister) engaged by the Church of Scotland or the Free Church of Scotland as a missionary after the commencement of this Order shall be admitted as a Member of the Fund. Missionaries.

7. The provisions of the Order of 1954 specified in Schedule 2 to this Order shall have effect subject to the amendments set out in the said Schedule. Amendment of Order of 1954.

c. ii *Churches and Universities (Scotland) Widows' and Orphans' Fund (Amendment) Order Confirmation Act 1981*

Winding up.

8.—(1) If in the opinion of the Trustees it would be expedient to discontinue the Fund they may resolve that it be wound up on a stated day and, after paying all expenses, shall apply the assets of the Fund to secure benefits of a nature similar to those provided by the Fund—

firstly, for beneficiaries in receipt of benefit of an amount equal to that enjoyed at the stated date but excluding any temporary additions;

secondly, for prospective beneficiaries at the stated date, after the death of members, of an amount equal to the prospective benefit excluding any temporary additions and reduced to take account of cessation of future rates, as certified by the Actuary to be appropriate:

Provided that—

(i) if the assets should prove insufficient to provide the above amounts, then the benefit of those persons in receipt of benefit shall be provided in full or in proportion to the available assets in priority and the benefits of the remainder reduced proportionately as may be necessary;

(ii) if, after providing as above, there remains a surplus of assets, it shall, subject to the approval of the Commissioners of Inland Revenue, be used to increase all benefits proportionately; and

(iii) any surplus thereafter remaining shall be returned to the churches and universities in such proportions as shall be determined by the Actuary.

(2) At the discretion of the Trustees, the benefits may be secured—

(a) by purchase of non-assignable and non-commutable annuities subject to paragraph (a) of section 5 (Further powers of Trustees) of this Order from an insurance company to which Part II of the Insurance Companies Act 1974 applies and which is authorised by or under section 3 of that Act to carry on ordinary long-term insurance business as defined in that Act payable at one or more of its offices in the United Kingdom; or

(b) by transfer of assets to another scheme approved under Chapter II of Part II of the Act of 1970 or approved for the purposes of this provision by the Commissioners of Inland Revenue.

(3) A resolution passed under subsection (1) of this section shall not have effect unless consented to by the general assemblies and the universities.

1974 c. 49.

Costs of Order.

9. All costs, charges and expenses preliminary to and of and incidental to the preparing for, obtaining and confirming of this Order or otherwise in relation thereto shall be paid out of the Fund.



## SCHEDULES

Section 4.

### SCHEDULE 1

#### REGULATIONS OF THE CHURCHES AND UNIVERSITIES (SCOTLAND) WIDOWS' AND ORPHANS' FUND

##### INTERPRETATION

1. In these Regulations unless there is something in the subject or context repugnant to such construction—

Words and expressions defined in the Churches and Universities (Scotland) Widows' and Orphans' Fund Orders 1954 to 1980 shall have the meanings thereby assigned to them and in addition the following words shall have the meanings hereinafter respectively assigned to them, that is to say:—

“Aggregate Retirement Benefit” means the aggregate of the Member's pension under all Associated Schemes;

“Associated Scheme” means any other retirement benefits scheme established by the Employer or to which the Employer has contributed;

“Dependant” in relation to a Member means any person who is or who immediately before the Member's death was wholly or substantially dependent on him for the ordinary necessities of life but includes (whether or not so dependent) the wife, husband, widow or widower of the Member and such of the Member's children as are under the age of 18 years;

“Employers” means the churches and universities, and when used in the singular in relation to a Member means that one of them by which the Member is employed or, if he is no longer employed by any of them, that one of them by which he was last employed.

##### OPTION TO FEMALES

2. Any female person who on 5th April 1980 was an ordained minister in the employment of the churches shall have the option exercisable by notice in writing to the Trustees of not becoming a Member.

##### PAYMENTS TO THE FUND

3. After 5th April 1980 no rates shall be paid by any person other than the Employers and the Members.

4. After 5th April 1980 no rates shall be paid by any of the Employers except in respect of Members who are in their employment or were in their employment at the date of retirement.

5. The amount paid into the Fund by each of the Employers in any calendar year shall not be less than a sum certified by the Actuary as

c. ii *Churches and Universities (Scotland) Widows' and Orphans' Fund (Amendment) Order Confirmation Act 1981*

SCH. 1  
—cont.

being an appropriate share of the expenses incurred by the Trustees in respect of its employees and retired employees who are Members or such other sum as the Commissioners of Inland Revenue may require for the continuation of their approval.

6. Rates payable in respect of any female Member shall be determined by the Trustees.

7. After 5th April 1980 no rates shall be paid by a Member who is not in the employment of the Employers or who has attained age 65:

Provided that this regulation shall not apply to—

- (1) a Member who retired from the employment of the Employers before 6th April 1980; and
- (2) a Member who on 5th April 1980 was in the employment of the Employers until he ceases to be in the employment of the Employers other than by retirement.

8. The aggregate of the amounts payable by a Member to the Fund and all Associated Schemes in any year shall not exceed 15 per cent. of the remuneration he received from the Employer in that year or such other percentage as the Commissioners of Inland Revenue shall from time to time approve.

COMMUTATION OF PAYMENTS TO CEASE

9. After 5th April 1980 the Trustees shall not exercise the power conferred upon them by section 31 of the Order of 1954 to allow a Member to commute ordinary annual payments by the payment of a single sum, and for the purpose of that section the "specified age" shall be age 65.

BENEFIT PAYABLE ON CESSATION OF RATES

10. Where annual rates cease to be payable in respect of a Member or where full rates have not been paid, the benefits payable on his death shall be such percentage of the normal benefits payable on a full rates record (including allowance for any marriage tax) as the Actuary shall certify to be appropriate.

11. Where a Member who has ceased to be in the employment of the Employers and is entitled to retain benefits from the fund re-enters such employment, he shall be reinstated for full benefits without payment of further entry money or further marriage tax in respect of a marriage for which such tax has already been paid but subject to an annual payment appropriate to his later entry.

LIMITATION IMPOSED BY INLAND REVENUE ON BENEFITS

12. (1) Notwithstanding anything to the contrary in the Order of 1954, the Order of 1967 and this Order or in these Regulations, the

*Churches and Universities (Scotland) Widows' and Orphans' Fund (Amendment) Order Confirmation Act 1981* c. ii

7

benefit payable to a Dependant of a Member shall not when aggregated with all benefits of a like nature provided by the Fund and all Associated Schemes exceed the limits set out below.

SCH. 1  
—cont.

(2) Any pension for a Dependant when aggregated with the pensions, other than those provided by surrender of the Member's own pension, payable to that Dependant under all other Associated Schemes, shall not exceed an amount equal to two-thirds of the Aggregate Retirement Benefit—

- (a) being paid to the Member at the date of his death; or
- (b) being a deferred benefit payable to the Member at age 65; or
- (c) prospectively payable to the Member who dies in service had he remained in service up to age 65 at the rate of pay in force immediately before his death; or
- (d) prospectively payable to the Member who dies in service after age 65 on the basis that he had retired on the day before he died;

or such greater sum as shall not prejudice approval of the provisions of the Fund under Chapter II of Part II of the Finance Act 1970. 1970 c. 24.

(3) If pensions are payable to more than one Dependant of a Member, the aggregate of all Dependents' pensions payable in respect of him by the Fund and all Associated Schemes shall not exceed the full amount of whichever is the appropriate Aggregate Retirement Benefit under (a), (b), (c) or (d) of paragraph (2) above or such greater sum as shall not prejudice approval of the provisions of the Fund under Chapter II of Part II of the Finance Act 1970.

(4) The maximum amount of a pension ascertained in accordance with this regulation may be increased in proportion to the increase in the Government's Index of Retail Prices (or such other Index as is agreed from time to time by the Commissioners of Inland Revenue as being suitable for this purpose) which has occurred since the pension commenced to be paid.

SCHEDULE 2

Section 7.

AMENDMENTS OF ORDER OF 1954

1. In section 3 (Interpretation)—

- (a) in the definition of "minister" the words "(not being a woman)" shall cease to have effect;
- (b) for the definition "mission committees" there shall be substituted the following definition:—

"mission committees" means the committees appointed by the general assemblies and known as the Overseas Council of the Church of Scotland and the Foreign Overseas and Jewish Mission Board of the Free Church of Scotland and shall include any other committees or bodies by whatever name they may be called to which the functions of any of those committees may be transferred by the general assemblies or any new committees of the churches appointed for similar purposes".



c. ii *Churches and Universities (Scotland) Widows' and Orphans' Fund (Amendment) Order Confirmation Act 1981*

SCH. 2  
—cont.

2. Section 23 (Provision as to annual payments) shall be read and have effect as if in paragraph (a) of subsection (1) after the word “funds” where it last appears there were inserted the words “and it shall be lawful for the secretaries or treasurers of the said funds to recover such annual sum from the minister professor or missionary in respect of whom the said annual sum was paid”.

3. Section 25 (Discontinuance of payments) and section 32 (Power to remove from fund for failure to make payment) shall cease to have effect.

4. Section 29 (Entry money and marriage tax) shall be read and have effect as if after subsection (1) there were inserted the words “In any case where the said sums are paid out of any of the said funds it shall be lawful for the secretaries or treasurers of the said funds to recover such sums from the minister professor or missionary in respect of whom the said sums were paid”.

5. In Section 45 (Periodical investigation by Actuary) for the word “periodically” there shall be substituted the words “at least once in every five years”.

6. Section 46 (Powers of investment) shall be read and have effect as if at the end of paragraph (3) there were inserted the words “or of any country of the European Economic Community” and as if for paragraph (4) there were substituted the following paragraph:—

“(4) In or upon the deposit receipts bonds debentures debenture stock mortgages or securities of any corporation company or body with limited liability whether municipal railway public-utility commercial industrial investment trust mortgage insurance banking or otherwise or in or upon the guaranteed lien preference or preferred or ordinary or deferred or common stocks or shares of any such corporation company or body or upon any securities whatsoever issued or guaranteed by any such corporation company or body:”

7. Section 47 (Power to make byelaws) shall be read and have effect as if for the words “under this Order” there were substituted the words “under the Churches and Universities (Scotland) Widows' and Orphans' Fund Orders 1954 to 1980” and as if for the words “of this Order” there were substituted the words “of the said Orders”.

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# Churches and Universities (Scotland) Widows' and Orphans' Fund (Amendment) Order Confirmation Act 1981

## CHAPTER ii

### ARRANGEMENT OF SECTIONS

#### Section

1. Confirmation of Order in schedule.
2. Short title.

#### SCHEDULE

##### CHURCHES AND UNIVERSITIES (SCOTLAND) WIDOWS' AND ORPHANS' FUND (AMENDMENT)

1. Short title.
2. Commencement of Order.
3. Interpretation.
4. Regulations.
5. Further powers of Trustees.
6. Missionaries.
7. Amendment of Order of 1954.
8. Winding up.
9. Costs of Order.

#### SCHEDULES:

Schedule 1—Regulations of the Churches and Universities (Scotland) Widows' and Orphans' Fund.

Schedule 2—Amendments of Order of 1954.