



Church of Scotland (Property and Endowments) Act 1925

1925 CHAPTER 33

PART I

STIPEND AND TEIND

1 Stipend to be payable only in money

Subject to the provisions of this Act, every stipend which in any way or to any extent depends upon fluctuations in the price of victual (hereinafter in this Act referred to as "victual stipend") shall cease so to depend, and shall be payable only in money at the standard value thereof as hereinafter defined.

The substitution of the standard value of a victual stipend for the value thereof according to the present law and practice is hereinafter in this Act referred to as the "standardisation" of the stipend and the expressions "standardised" and "date of standardisation" have corresponding meanings.

2 Standard value of victual stipend

(1) The value in money of victual stipend shall for each county in Scotland be determined by adding to the former county average value of the different kinds of victual in which such stipends are localled an increase of five per centum of that average value, and for the purposes of this section the former county average value of any kind of victual shall be deemed to be the average value of that kind of victual for that county for the fifty years 1873 to 1922, as ascertained—

- (a) In the case of the kinds of victual mentioned in the First Schedule to this Act, by reference to the values set out therein, or where for any county the value of any such kind of victual is not so set out, then by reference to the value of such other kind of victual for that county or to the value of the same kind of victual for such other county or counties as the Court of Session may select, and by Act of Sederunt prescribe, as being most suitable in the circumstances of the case; and

- (b) In the case of any kind of victual not mentioned in the First Schedule to this Act, in accordance with the provisions set out in the Second Schedule to this Act.
- (2) In the application of the foregoing provisions of this section to a particular parish, regard shall be had to any special method of calculation of stipend customary in that parish (including calculation of a stipend localised in Bear by reference to the fiars price for first or second Barley) and the sheriff may give such instructions to the Clerk of Teinds as he may deem to be necessary or proper for this purpose upon application made to him by any minister or presbytery or heritor concerned at any time before the expiry of six months after the date of standardisation. If no such application is then made in respect of any parish, this subsection shall not have effect with respect to that parish. Intimation of any such application shall be made to such persons as the sheriff may appoint. The decision of the sheriff shall be final unless, an appeal therefrom shall be taken to the Lord Ordinary by the applicant or by any person appearing in the application in manner provided by the Ecclesiastical Buildings and Glebes (Scotland) Act, 1868, with respect to appeals from the sheriff to the Lord Ordinary under that Act, and the provisions of that Act relating to such appeals shall, with the necessary modifications, apply to appeals under this subsection, and the clerk to the process in appeals under this subsection shall be the Clerk of Teinds.
- (3) The value in money of any victual stipend, as the same may be determined under subsection (1) of this section subject to any variation under subsection (2) thereof along with the value of any money stipend is in this Act referred to as the "standard value " of that stipend.

3 Date of standardisation of stipend

The date of standardisation of a stipend shall be the term of Martinmas which shall first occur not less than six months after the date when the benefice becomes actually vacant or is deemed to have become vacant by election or by notification as hereinafter provided. In the case of a benefice which is actually vacant at the passing of this Act the date of standardisation shall be the term of Martinmas, nineteen hundred and twenty-five.

The words " becomes actually vacant " shall not include the occasion where a minister is succeeded by an assistant and successor appointed to him before the passing of this Act, but shall include the occasion where a minister is succeeded by an assistant and successor appointed to him after such passing.

4 Standardisation by election

Any minister who at the passing of this Act is entitled to a victual stipend may elect that the stipend shall be standardised, and if he so elects he shall intimate his election in writing in the form set forth in the Third Schedule to this Act or in a similar form to the heritors to the clerk of the presbytery and to the General Trustees, and in such case the benefice shall for the purposes of this Act be deemed to have become vacant by election at the date of the said intimation.

Where at the passing of this Act an assistant and successor has been appointed to a minister entitled to a victual stipend, either the minister or the assistant and successor with the consent of the assistant and successor or of the minister (as the case may be), or failing such consent with the authority of the presbytery may elect and intimate his election as aforesaid.

5 Standardisation by notification

- (1) It shall be lawful for the General Trustees to intimate in writing to the minister of any parish who is entitled to victual stipend and to the clerk of the presbytery and to the heritors that the victual stipend is to be standardised and in such case the benefice shall for the purposes of this Act, but subject as hereinafter in this section provided, be deemed to have become vacant by notification at the date of the said intimation : Provided that the General Trustees before making such intimation shall have given to the minister an undertaking that (notwithstanding such standardisation) the amount of his stipend according to the present law and practice will continue to be paid to him by the General Trustees until he ceases to be minister of the parish and that the right (if any) of his widow or other representatives to Ann will, in the event of his death, be satisfied, and the obligations contained in any such undertaking shall be duly fulfilled by the General Trustees, who shall be indemnified by the General Assembly to such extent (if any) as may be necessary having regard to the amount of money at the disposal of the Trustees for that purpose: Provided always that if at any time during the currency of such an undertaking the minister intimates to the General Trustees in terms of the section of this Act relating to standardisation by election, his election that his stipend should be standardised, such intimation shall have effect as in that section provided and the undertaking shall cease to operate.
- (2) In the application of the foregoing subsection to a benefice where an assistant and successor has been appointed to the minister before the passing of this Act, the word "minister" shall include and refer to that assistant and successor as well as the minister: Provided that the undertaking to be given by the General Trustees to the assistant and successor shall include his interest in the stipend so long as he remains assistant and successor as well as after he succeeds the minister should that event occur, but shall not include any right with respect to Ann.

6 Collegiate charges

With respect to a parish where separate benefices exist and both the ministers are entitled to victual stipend, except where in such parish there are no surplus teinds, the foregoing provisions of this Act shall have effect subject to the following modification, namely, that neither of the benefices shall be deemed to be or to become "actually vacant or to have become vacant by election or notification, unless the other benefice was actually vacant at the passing of this Act, or shall thereafter have become actually vacant or been deemed to have become vacant by election or notification.

7 Vesting of standardised stipend

Any stipend which has been standardised under the provisions of this Act shall as on and from the date of standardisation vest de die in diem in the minister entitled thereto without prejudice to the payment of any stipend vested in him or in any former incumbent of the benefice according to the present law and practice and subject to the satisfaction of any claim for Ann on the part of the widow or other representatives of a deceased incumbent: Provided that in the case of a benefice which is deemed to have become vacant by notification the foregoing provision shall not have effect unless and until the benefice becomes actually vacant or is deemed to have become vacant by election.

8 Payment of standardised stipend

- (1) As from the date of standardisation any stipend which has been standardised under the provisions of this Act shall be payable by the heritors to the General Trustees half-yearly at the terms of Whitsunday and Martinmas each half-yearly payment being in respect of the half-year preceding the date of payment subject to the following exceptions, namely—
 - (a) that the first half of the standardised stipend for the year beginning on the date of standardisation shall not become payable until the term of Lammas in that year; and
 - (b) that the second half of the standardised stipend for that year shall not become payable till the term of Candlemas in the following year.
- (2) Where as hereinafter in this Act provided the standard value of the stipend as shown by the teind roll is constituted a real burden or has been redeemed or extinguished as the case may be, the provisions of this section shall cease to have effect, and with respect to payments under this section due or payable before that event, the General Trustees shall have all the powers of recovery which according to the present law and practice a minister has with respect to his stipend.

9 Provisions as to Ann

- (1) Neither the widow nor any other representative of any minister admitted after the passing of this Act to any benefice in the Church of Scotland shall be entitled to Ann.
- (2) The foregoing provision shall, so far as respects any right in name of Ann to any stipend standardised under the provisions of this Act, apply to the widow and other representatives of any minister admitted before the passing of this Act where the benefice is deemed to have become vacant by election and the minister survives the date of standardisation by one year or more.
- (3) Save as in this Act expressly provided, nothing contained therein shall affect or be construed to affect the right which the widow or other representatives of a deceased minister has or have by the present law and practice to one half year's stipend in name of Ann.

10 Augmentation of stipend

- (1) On the passing of this Act the present law relating to augmentation of stipend shall cease to have effect without prejudice to any application for augmentation competently made before such passing or to anything following on such application or done therein.
- (2) The minister or the General Trustees as the case may be to whom a stipend or a standardised stipend is payable may—
 - (a) if not less than twenty years shall have elapsed since the date of the last application for augmentation of the stipend ; or
 - (b) upon the expiry of twenty years from the date of the last application for augmentation of the stipend or upon the expiry of ten years from the passing of this Act, whichever of these two events shall first occur;apply to the Lord Ordinary to find whether there are surplus teinds available for an augmentation.' No such application may be made after the expiry of eleven years from the passing of this Act.

- (3) If the Lord Ordinary (whose decision shall be final and not subject to review) finds that there are surplus teinds so available, the minister or the General Trustees, as the case may be, shall be entitled to receive as from the first term of Martinmas following the date of the application an augmentation according to the following scale:—
- (a) Where the stipend as last modified by the Court of Teinds does not exceed twenty-five chalders, an augmentation of six chalders; and
 - (b) Where the stipend as so modified exceeds twenty-five chalders but is less than thirty chalders, an augmentation of five chalders; and
 - (c) Where the stipend as so modified is thirty chalders or upwards, an augmentation of four chalders.

The foregoing augmentation of six, five or four chalders, as the case may be, shall be converted and localled in sterling money according to the standard value, the order of allocation being in accordance with the present practice.

If the amount of the available surplus teinds as ultimately ascertained in the localling of the augmentation among the heritors is insufficient to meet the foregoing augmentations, the augmentation shall be limited to the amount so ascertained.

- (4) As from the date when a minister or the General Trustees, as the case may be, becomes or become entitled to an augmentation under this section, the amount of the augmentation shall be added to the stipend and shall be payable and recoverable in like manner.
- (5) The provisions set out in the Fourth Schedule to this Act shall have effect with respect to augmentations under this section and any decree of locality following thereon.
- (6) An augmentation under this section shall come in place of all future rights of augmentation and shall be final.
- (7) In the event of the Lord Ordinary finding that there are no surplus teinds available for an augmentation, neither the minister nor the General Trustees shall be entitled to make any further application.
- (8) In the application of this section to a parish where separate benefices exist and both ministers are entitled to victual stipend—
- (a) the expression " the date of the last application " for augmentation of the stipend" shall, in cases where applications for augmentation were last made at different dates, mean the later of those dates; and
 - (b) the expression " the stipend as last modified by " the Court of Teinds " shall mean the stipend of each or either of the two benefices taken separately.

11 Teind rolls

- (1) There shall be prepared by the Clerk of Teinds for every parish in Scotland a teind roll specifying in sterling money—
- (a) The total teind of that parish; and
 - (b) The amount of that total applicable to the lands of each heritor; and
 - (c) The value of the whole stipend payable to the minister, so far as payable out of teinds including vicarage teinds payable as stipend and surrendered teinds so payable; and
 - (d) The proportion of that value payable by each heritor in the parish.

- (2) The said teind rolls shall be prepared and issued as soon as may be practicable, and the provisions of the Fifth Schedule to this Act shall have effect with respect to the preparation, issue, and adjustment of the teind rolls.
- (3) The Court of Session shall make by Act of Sederunt, with the approval of the Treasury, such rules and regulations as may in the judgment of the Court from time to time be necessary to regulate the amount of the fees to be paid to the Clerk of Teinds in connection with the preparation, issue, and adjustment of the teind rolls and the time and place, of the payment of the said fees. The expenses of the preparation, issue and adjustment of the teind roll, including where a state of teinds is necessary the expense of the preparation thereof, shall be apportioned among the heritors (including any heritors whose teinds have been valued and surrendered before the date of standardisation) in proportion to the amount of the total teind applicable to the lands of each heritor. The share of such expenses apportioned to any heritor, other than a heritor whose teinds have been valued and surrendered as aforesaid shall be payable by such heritor, and the share of such expenses apportioned to any heritor whose teinds have been valued and surrendered as aforesaid shall be payable by the General Trustees.

12 Charge to be substituted for liability for stipend exceeding one pound

Where the standard value (as shown by the teind roll of a parish) of the stipend exigible from the teinds of any lands of a heritor in that parish which are comprised in one entry in the teind roll exceeds the sum of one pound—

- (1) the amount of such standard value shall by virtue of this Act be constituted as at and from the first term of Whitsunday or Martinmas which shall occur after the date when the teind roll becomes final a real burden (in this Act referred to as the "standard charge") on the lands from the teinds of which the said stipend is exigible in favour of the General Trustees preferable to all other securities or burdens not incidents of tenure;
- (2) the amount of the standard charge shall be payable by equal half-yearly instalments at the terms of Whitsunday and Martinmas each half-yearly instalment being in respect of the half year preceding the date of payment and the said instalments shall be recoverable by the same means and in the like manner as any feu-duty out of the said lands would be recoverable;
- (3) the standard charge over any lands may at any time after the completion of the teind roll be redeemed by and in the option of the heritor of those lands or other person liable in respect of the standard charge either (a) for such consideration or in such manner as may be agreed upon between the person liable and the General Trustees, or (b) at any term of Whitsunday or Martinmas after three months' notice either (i) by payment to the Trustees of such a sum as would if invested at the time of payment in Consolidated 2 ½ per cent. annuities produce an annual sum equal to the standard charge, or (ii) by transfer to the General Trustees of such an amount of Consolidated 2 ½ per cent. annuities as would produce an annual sum equal to the standard charge;
- (4) upon the redemption of the standard charge as aforesaid any claim upon the heritor or other person in respect of such standard charge shall cease and be extinguished and the lands from which the same was exigible shall be disburdened thereof in all time coming and an entry to that effect shall be made in the teind roll which shall be sufficient evidence of the discharge of the burden.

13 Allocation of standard charge

A standard charge shall from its constitution continue a real burden on the whole of the lands subject thereto, and on every part of those lands notwithstanding any disposition of the lands or any part thereof unless and until intimation of an allocation of the standard charge has been made in writing by the General Trustees and the disponer or his representatives to the Clerk of Teinds, who upon receiving such an intimation shall forthwith make the necessary entry in the teind roll.

If as the result of any such allocation the portion of a standard charge so allocated upon the lands disposed or remaining a real burden on the lands retained by the disponer does not exceed one pound, the disponer or his representatives shall within three months after the date of the entry in the roll redeem the same by payment to the General Trustees of a sum equal to the amount so allocated or remaining a burden multiplied by twenty; and if the portion of the standard charge so allocated or remaining a burden exceeds one pound but is less than fifteen pounds, that portion of the standard charge shall as from the date of the entry in the teind roll be increased by five per centum.

14 Provisions where stipend exceeds one shilling but does not exceed one pound

Subject to the provisions of the next succeeding section of this Act, where the standard value (as shown by the teind roll of a parish) of the stipend exigible from the teinds of any lands of a heritor in that parish which are comprised in one entry in the teind roll does not exceed the sum of one pound :—

- (1) the heritor or other person liable in payment of the said stipend shall redeem the same either—
 - (a) at the first term of Whitsunday or Martinmas which shall occur not less than three months after the date on which the teind roll of the parish becomes final for such consideration or in such manner as may be agreed upon between the person so liable and the General Trustees; or
 - (b) by payment to the General Trustees at the said term of Whitsunday or Martinmas of a sum equal to the standard value of the said stipend multiplied by eighteen; or
 - (c) by payment to the General Trustees, along with each half-yearly payment of the said stipend during a period of eighteen years commencing at the said term of Whitsunday or Martinmas, of a redemption instalment equal to seventy-five per centum of the half-yearly payment of the stipend, which redemption instalment shall be recoverable by the General Trustees in the same manner as the half-yearly payment of the stipend:
- (2) Upon the redemption of a stipend as aforesaid any claim upon the heritor or other person in respect of such stipend shall cease and be extinguished and an entry to that effect made in the teind roll shall be sufficient evidence of the redemption.

15 Extinction of liability for stipend not exceeding one shilling

Where the standard value (as shown by the teind roll of a parish) of the stipend exigible from the teinds of all the lands of a heritor in that parish, whether those lands are comprised in one or in more than one entry in the teind roll does not exceed the sum of one shilling, any claim for or in respect of the stipend upon the heritor or other person liable in payment thereof (other than a claim for payments already due) shall, notwithstanding any law or practice to the contrary, cease and be extinguished as at the

first term of Whitsunday or Martinmas which shall occur not less than three months after the date on which the teind roll of the parish becomes final.

16 Valuation and surrender of teinds

- (1) After the passing of this Act, the provisions set out in the Sixth Schedule to this Act which relate to the obtaining of valuations of teinds and the surrender of valued teinds shall have effect for those purposes and the present law and practice relating thereto shall cease to apply but without prejudice to any proceedings taken before the passing of this Act or to any proceedings which may be taken within three years after the passing of this Act for the approbation of reports of sub-commissioners relating to the valuation of teinds.
- (2) Where the annual agricultural value of any lands has been ascertained in accordance with the provisions set out in the said schedule one-fifth part of that value shall be the valued teind of those lands in all time coming.
- (3) Where no application for the ascertainment of the annual agricultural value of any lands, the teinds of which have not been valued, is made in accordance with the said provisions and within the period thereby prescribed, the value of such teinds specified in the teind roll for the parish in which the lands are situate shall be deemed to be accepted by acquiescence, and shall be the valued teind of those lands in all time coming.

17 Deduction of stipend in question with titular

As from the date of standardisation of any stipend which has been standardised under the provisions of this Act, the heritor of any lands from the teinds of which the stipend or any part thereof is exigible shall, in any accounting in respect of those teinds with the titular thereof, be entitled to deduct the amount of the standardised stipend exigible from those teinds, or of any standard charge coming in place of such stipend or any part thereof, whether or not such stipend or part thereof, or standard charge, has been redeemed or extinguished.

18 Sale of surplus teinds

Notwithstanding anything contained in the Act of the Scots Parliament, [1693, c. 23](#) (an Act renewing the commission for plantation of kirks and valuation of teinds), or in any other enactment or in any charter, grant or deed, it shall be lawful after the passing of this Act for the titular or any other person having right of titularity to sell surplus teinds on such terms as may be agreed upon between him and the heritor.

Nothing in this section shall prejudice or affect the provisions of the Acts of the Scots Parliament, [1633, c. 17](#) (anent the rate and price of teinds), and [1690, c. 23](#) (concerning patronages) or any other enactment at present in force authorising the sale of surplus teinds.

19 Provisions as to certain payments out of the Consolidated Fund

- (1) The charges and payments described in the Seventh Schedule to this Act and any other payments to or on behalf of the Church or the General Assembly or any committee or institution of the Church or any minister which at the passing of this Act are charged

on and payable out of the Consolidated Fund of the United Kingdom shall thenceforth be paid to the General Trustees in such manner as may be directed by the Treasury.

- (2) The Treasury may at any time contract for the redemption of all or any of the payments referred to in the preceding subsection by payment to the General Trustees of such capital sum or sums as may be agreed between the Treasury and the General Trustees.
- (3)
 - (i) The Treasury may from time to time borrow from the National Debt Commissioners and those Commissioners may lend to the Treasury such capital sum or sums as may be necessary for carrying into effect any contract made in pursuance of the immediately preceding subsection.
 - (ii) For the purpose of repaying any such loan the Treasury may create in favour of the National Debt Commissioners a terminable annuity for a period not exceeding twenty years from the date of the loan to be calculated with interest at such rate as may be agreed.
 - (iii) Such annuity shall be notified by certificate under the hand of the Comptroller or Assistant Comptroller and the Actuary of the National Debt Office and shall be charged upon the Consolidated Fund of the United Kingdom or the growing produce thereof.