



MISSION COUNCIL

13 – 15 MAY 2013

K4

Ministers' Pension Fund: Rule Changes

Background

1. At its meeting on 20th March the Directors of the Ministers' Pension Fund Trustee determined the most appropriate way of resolving a number of technical issues that have arisen with the Ministers' Pension Fund (URCMPF). There is no adverse effect upon members' overall benefits and an insignificant effect on overall costs.

The Issues

2. Three of the matters can only be resolved by changes in the Rules of the Ministers' Pension Fund. This can be achieved by a Deed of Amendment signed on behalf of the Church in its role as "employer" (as understood by pensions legislation). These changes:

- Update the Rules to reflect legislative change covering the treatment of debts that arise when an employer (for example Mansfield College) ceases to participate in the scheme;
- Correct an error in one of the Rules as amended last year whereby the Rule provides for death benefits prior to age 65 for unmarried deferred pensioners (early leavers) which are greater than intended, in conflict with the announcement made to ministers at the time which also governs the benefits payable under last year's amending deed. More details of this are provided in the Appendix.
- Make the Rules compliant with the statutory benefits preservation requirements by inserting a provision to allow the Trustee to pay additional benefits as necessary. It is not clear whether the Rules are currently fully compliant, in particular for early leavers who postpone payment of their pensions, and the URCMPF legal advisers have recommended this approach as the minimum required to make the Rules compliant. More details are provided in the Appendix.

3. The attached Deed of Amendment is designed to make these changes and is acceptable to the Directors of the Ministers' Pension Fund Trustee.

4. The final issue concerns the payment of dependent children's benefits. At present benefits mirroring those under the Plan for Partnership for serving ministers are paid for any dependent children by addition to members' retirement pensions, or as an addition to a spouse pension, or directly to the child where neither parent is alive.

5. The URCMPF legal advisers have recently advised the Trustee that the payment of such benefits as an addition to members' benefits does not fall within the authorised payments that may be made from a pension fund and would therefore be subject to punitive tax treatment. Benefits paid to the spouse or child are not affected.

6. While the incorrect past payments are covered under a legislative exemption, it is necessary to avoid making future payments as these would be unauthorised. It is proposed to make future payments of the supplement to the member's pension from the Retired Ministers Fund (RMF). This simply transfers some of the liabilities from the URCMPF to the RMF with no effect on the member. Further details are given in the Appendix.

Resolutions

Mission Council, acting on behalf of General Assembly, agrees that a Deed of Amendment to the Rules of the Ministers' Pension Fund (in materially the form attached to this paper) should be approved and signed on behalf of the United Reformed Church by the Moderator and Clerk of the Assembly.

Mission Council notes that dependent children additions to members' pensions hitherto paid from the Ministers' Pension Fund will in future be provided from the Retired Ministers Fund.

Dr Chris Evans
Convener
Pensions Executive

John Ellis
Treasurer

29 March 2013

draft

28 March 2013

Draft 2

Dated _____ 2013

THE UNITED REFORMED CHURCH MINISTERS' PENSION FUND

DEED OF AMENDMENT

BY

THE UNITED REFORMED CHURCH acting by _____ and _____
being respectively Moderator and Clerk of the General Assembly of the United Reformed Church and duly authorised by the General Assembly to execute this deed on behalf of the United Reformed Church (the "**URC**").

WHEREAS:

- (A) The United Reformed Ministers' Pension Fund (the "**Fund**") was established by an interim trust deed dated 29 May 1980 and is presently governed by a Definitive Trust Deed with Rules attached, as approved by the General Assembly of the URC in May 1993 (as amended), (the "**Trust Deed and Rules**").
- (B) The URC is the current principal employer and the United Reformed Church Ministers' Pensions Trust Limited is the current trustee (the "**Pension Trustee**") of the Fund respectively.
- (C) Definitions used in the Trust Deed and Rules have the same meaning in this deed.
- (D) By Rule 34.1 of the Trust Deed and Rules the URC may, acting by the authority of the Assembly, amend the provisions of the Trust Deed and Rules, provided no amendment shall be made until a report on its financial effect on the Fund has been obtained from the Actuary. This report has been received by the URC.
- (E) Various amendments were made to the Trust Deed and Rules by a deed of amendment dated 29 October 2012 (the "**October Deed**") which implemented the benefit changes described in *The United Reformed Church Ministers' Pension Fund – Proposals for change* (the "**Announcement**"). These changes included an amendment to the definition of Normal Pension Age from age 65 to age 68.
- (F) Paragraph 8 of the Announcement states that the Pensions Executive has no intention to change the calculation of death benefits:

"*We therefore recommend no change in the calculation of death benefits ...*"
- (G) Rule 42.2 applies to a Member who dies having elected to receive a deferred pension at Normal Pension Age without having reached that age and without leaving a spouse who qualifies for a pension under Rule 42.3. Clause 3 of the October Deed amended Rule 42.2 to include provision for a "five year guarantee" calculated in accordance with Rule 23.
- (H) The URC, after consulting with the Pension Trustee, has concluded that the amendment made to Rule 42.2 by the October Deed was intended to be a consequential change flowing from the amendment to

the definition of Normal Pension Age, also made by the October Deed. Accordingly the "five year guarantee" should be payable only in respect of Members to whom Rule 42.2 applies and who have reached the age of 65 at the time of death.

- (I) Clause 2.1.2 of the October Deed states that (subject to Rule 34 of the Trust Deed and Rules and Section 67 of the Pensions Act 1995) in the event of uncertainty as to a member's entitlement to benefits under the Fund, or in the event of conflict between the Rules and the Announcement, the Pension Trustee shall construe the Rules consistently with Announcement, after consulting the URC, where appropriate. The URC has consulted the Pension Trustee on this matter.
- (J) Amendments made by this deed clarify the wording of Rule 42.2 to ensure that it accurately reflects the benefit changes described in the Announcement, in accordance with clause 2.1.2 of the October Deed.
- (K) In addition, under this deed:
 - (1) Rule 44 is amended by the introduction of a power to allow the Pension Trustee to adjust certain benefits payable under the Fund in order to ensure compliance with preservation legislation and to pay additional benefits on the death of an early leaver in certain circumstances.
 - (2) Rule 50 is amended to remove the existing requirement that a departing employer must pay at least £10 under an arrangement to modify any amount that might otherwise be treated as a debt due under section 75 and 75A of the Pensions Act 1995.
- (L) The amendments made by this deed are not regulated modifications of the Fund within the meaning of section 67A(2) of the Pensions Act 1995.

THIS DEED WITNESSES as follows:

- 1. In exercise of its powers in Rule 34.1 of the Trust Deed and Rules the URC makes the following amendments with effect from the date of this deed:
 - 1.1 Rule 42.2 is amended as follows:

by inserting the words "*dies after attaining age 65 and*" after the words "*Except that if the member*" and before the words "*was in Pensionable Service*" at the beginning of the second sentence.
 - 1.2 A new Rule 44.3 and 44.4 are inserted at the end of Rule 44 as follows:

"44.3 *The Pension Trustee may in its absolute discretion (but subject to compliance with statutory requirements), having considered the advice of the Actuary, do one or both of the following:*

44.3.1 *augment any benefits of a person (or class of persons) entitled to benefits under the Fund; or*

44.3.2 *pay any benefits to a person (or class of persons) not otherwise entitled to such benefits*

provided that the Pension Trustee considers an augmentation or payment under Rule 44.3.1 or 44.3.2 above:

44.3.3 *to be reasonably necessary to ensure the Fund's compliance with the preservation requirements contained in sections 69-82 of the Pensions Schemes Act 1993 and/or the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (SI 1991/167) as amended from time to time; or*

44.3.4 *appropriate in relation to a Member who dies after Normal Pension Age (or after age 65 where a Member was in Pensionable Service before 1 January 2013) after having left Pensionable Service and to whom the provisions of neither Rule 22 (Death in Service) nor Rule 23 (Death after Retirement) applies.*

44.4 *Payments made by the Pension Trustee in exercise of its powers under Rule 44.3 shall be paid out of the Fund, and the provisions of Rule 44.2 shall not apply.¹*

1.3 Rule 50 is amended by deleting the final sentence "*However, the modification cannot reduce the amount of any debt to less than £10.*"

2. Words and expressions used in this deed but not defined shall, where the context so admits, have the meanings given to them in the Trust Deed and Rules.

¹ *Note – Simon Corbett to approve this approach.*

THIS DEED has been executed and delivered by the URC on the date written at the top of the first page.

EXECUTED as a deed by)
the UNITED REFORMED CHURCH)
acting by following duly authorised persons)
)

Witness signature:

Witness name:

Witness address:

.....

.....

Witness occupation:

Witness signature:

Witness name:

Witness address:

.....

.....

Witness occupation:

Appendix

Death benefits under the URCMPF and the application of the Statutory Preservation Requirements

In response to a question from a member about his personal position, it has become apparent that there are several issues with the current Rules. It has not been possible to fully analyse the position at this time, but in discussion with the URCMPF lawyers, Travers Smith, two corrective measures are proposed in the short term.

The issues are related to (a) the flexibility now provided in the timing of cessation of stipendiary service, cessation of contributory service to the pension fund and commencing to draw pensions, and (b) the need to ensure that pre-2013 benefits “at age 65” and subsequent “at age 68” benefits are specified in appropriate detail in the Rules. The amendments made last year included an overriding provision addressing this point, but it was intended that this would apply on an interim basis pending detailed rule amendments. The situations below have been the focus of analysis, but other areas may also require examination.

1. Death after Normal Pension Age

Members who withdrew from service before 2013, or who opted out of the recent scheme changes, have a normal pension age (NPA) of 65. Other members have an NPA of 68.

Where a member postpones taking his/her pension beyond NPA, the Rules only provide a death benefit payable on death before taking a pension if the member (a) left pensionable service on or after NPA, and (b) has continued in the service of the URC or any Participating Body. In this situation benefits will be paid as if the member had retired on the day before death. This will cause both a spouse’s pension and a sum equal to five years of member’s pension to become payable. Otherwise, no value from the member's pension would be payable on death – only a spouse’s pension where applicable.

Although they had previously agreed to the wording of the Rules, Travers Smith are now uncertain whether this provision satisfies the statutory preservation requirements. These broadly require members who leave service early to gain the same benefits in respect of their service at normal pension age as those who work up to that age. If they retire earlier or later than this, the benefits should be of equal value. In any event, it may be the case that the Church might wish to ensure that all who postpone retirement receive the same death benefit entitlement.

The option recommended in the short term is to amend the Rules to allow the Trustee to make additional payments to meet the preservation requirements and flexibility to make appropriate payments in cases where they would not strictly be required by statutory preservation requirements. This makes the Rules compliant with regulation and allows some flexibility, but leaves open the question of what benefits should be provided for further discussion.

2. Death between age 65 and 68

Contributing members from 2013 (except those who opted-out) may have some pension accrued with a pension age of 65 and some becoming payable in full only at age 68. Such members who remain in active membership until at least 65 but postpone taking pension for a period (but not beyond 68) will be treated as a member with a deferred pension.

Where such a member dies before drawing pension their benefits are therefore covered by the same Rule as other early leavers. Under this Rule when a member who is not a contributory member dies

before NPA (ie 68) a payment of a refund of contributions with interest or a spouse's pension becomes payable, dependent on marital status.

For unmarried members, a change was made to the Rule that was intended, for members aged over 65, to replace the refund of contribution element in respect of pre-2013 service with a payment equal to five years member's pension calculated as if the member retired on the day before death. Unfortunately this age restriction was not stated in the wording of the relevant Rule, so extending the benefit to all unmarried deferred members. However the changes also stated that the announcement of scheme changes overrode individual Rule changes – and this announcement did not extend the death benefits in this way, and indeed stated that it had been concluded that death benefits should remain unchanged (other than in respect of a change directly consequential on the change of normal pension age from 65 to 68). In order to correct this discrepancy a change is proposed introducing the missing over age 65 wording.

For married members the benefit remains as only a spouse's pension (plus children's benefits). This is inconsistent with the treatment of death after pension age that previously applied from 65 (as described above). Travers Smith have concerns as to whether this correctly reflects preservation requirements, and the change described above will also cover this situation in the short term. However, the question of whether, post 65, the death benefit for married members should include both spouse pension and five years member's pension remains open.

Provision for Dependent Children

Travers Smith have informed the Trustee that an error has been made in the payment of pensions for dependent children since at least in 2006.

In essence, the main body of the URCMPF Rules provide for dependent children's pensions to be paid in a way that mirrors the allowances paid under the Plan for Partnership when a member dies or retires with qualifying offspring. In practice, payments have been made as an addition to the member's pension, spouse's pensions and directly to dependent children, depending on who is alive at the time.

The error arises in connection with payments made as temporary additions to member's pensions. Under the application of the overriding Inland Revenue Limits Part 1 – Tax Rules these would have been unauthorised payments requiring specific discretion of the Trustee for payment. In practice, the Trustee was unaware of this limitation, and did not exercise discretion in this way. Payments made in the past were therefore over-payments of pension which the Trustee has decided should not be recovered.

The Trustee has been advised that an exemption dealing with pension errors in HMRC's Authorised Payments Regulations 2009 should apply. Regulation 13 provides that a payment made in error which is intended to represent an authorised payment is treated as authorised if the trustees making the payment believed (when making the payment) that the recipient was entitled to payment of the amount paid.

In future, however, it is proposed that any dependent children's benefits payable from the URCMPF be limited to those made as additions to the spouse pension or paid directly to the child. Any payments payable to ministers as pension additions, including those currently in payment, will be paid from the Retired Ministers Fund. This Fund is quite separate from the Pension Fund and has traditionally been used to provide some supplements to those pensions that can be paid by the URCMPF. At its last valuation, the RMF was in slight actuarial deficit but the calls on it are in trend decline so this additional responsibility can be considered.

Approval of these measures is being sought from the URC Trust and Mission Council.