CHAPTER lxviii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to the Church of Scotland Ministers' and Scottish University Professors' Widows' Fund (Amendment). [4th August 1926.] A.D. 1926.

WHEREAS His Majesty's Secretary for Scotland has made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament: 62 & 63 Vict. c. 47.

Be it therefore enacted by the King'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:—

Confirmation of Order in schedule.

1. The Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed.

Short title.

2. This Act may be cited as the Church of Scotland Ministers' and Scottish University Professors' Widows' Fund (Amendment) Order Confirmation Act 1926.

[*Price 4d. Net.*]

A.D. 1926.

SCHEDULE.

CHURCH OF SCOTLAND MINISTERS' AND SCOTTISH UNIVERSITY PROFESSORS' WIDOWS' FUND.

Provisional Order to amend the Church of Scotland Ministers' and Scottish University Professors' Widows' Fund Order 1923 *and for other purposes.*

WHEREAS the Church of Scotland Ministers' and Scottish University Professors' Widows' Fund (hereinafter referred to as "the Fund") is at present constituted by and administered under the Church of Scotland Ministers' and Scottish University Professors' Widows' Fund Order 1923 (hereinafter referred to as "the Order of 1923") which repealed the Statutes under which the Fund was administered prior to the commencement of the Order of 1923 being the Church of Scotland Ministers' Widows' Fund Acts 1779 to 1890 and consolidated and amended the statutory provisions relating to the Fund:

And whereas under the law and practice existing and in force at the time when the Order of 1923 came into operation and for many years prior thereto the Fund was entitled subject to Ann to vacant stipend arising in every benefice in the Church of Scotland and subject as aforesaid did collect the whole vacant stipend arising in any such benefice by reason of the death translation resignation or deprivation of the minister:

And whereas the Order of 1923 continued and re-enacted the right of the Fund to vacant stipend according to the law and practice then and theretofore existing and provided machinery whereby such vacant stipend should thenceforth be levied by the trustees of the Fund (who were incorporated by the said Order) and paid to the collector of the Fund for the time being for the purposes of the Fund:

And whereas the Church of Scotland (Property and Endowments) Act 1925 (hereinafter referred to as "the

Act of 1925") provided that on the occurrence of certain events therein set forth every stipend as defined in the said Act which had formerly depended upon fluctuations in the price of victual should cease so to depend and should be payable only in money at the standard value thereof as therein defined (the change thus provided for being hereinafter referred to as the "standardisation" of the stipend):

And whereas in cases where any stipend shall have been standardised as aforesaid the Act of 1925 provided that such stipend shall as on and from the date of standardisation vest de die in diem in the minister entitled thereto and has thereby altered for such cases the previously existing law and practice with regard to the vesting of ministers' stipend with the result that in such cases the periods in respect of which vacant stipend may be payable to the Fund have also been altered:

And whereas the Act of 1925 has also made provision for the transfer to the Church of Scotland General Trustees (incorporated by the Church of Scotland (General Trustees) Order 1921 and hereinafter referred to as "the General Trustees") of the properties and endowments of the Church of Scotland in the manner and to the extent and for the purposes therein set forth:

And whereas in so far as the properties and endowments of the said Church are or may hereafter be under and in pursuance of the Act of 1925 transferred to the said General Trustees the machinery provided by the Order of 1923 for the collection of vacant stipend on behalf of the Fund has ceased or will cease to be adequate or appropriate inasmuch as vacant stipend exigible from income of the properties and endowments so transferred or to be transferred will be ingathered by the said General Trustees:

And whereas it is expedient that the Order of 1923 should now be amended in order that its provisions with regard to vacant stipend and certain other matters may be adequately adapted to fit the changed circumstances introduced by the Act of 1925 as aforesaid:

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland

A.D. 1926. confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary for Scotland orders as follows:—

Short title. 1. This Order may be cited for all purposes as the "Church of Scotland Ministers' and Scottish University Professors' Widows' Fund (Amendment) Order 1926" and this Order and the Church of Scotland Ministers' and Scottish University Professors' Widows' Fund Order 1923 may be cited together as the "Church of Scotland Ministers' and Scottish University Professors' Widows' Fund Orders 1923 and 1926."

Interpretation. 2.—(1) Subject to the provisions of this Order words and expressions to which meanings are assigned by the Order of 1923 shall have the same respective meanings in this Order.

(2) The meanings assigned by section 3 of the Order of 1923 to the words and expressions "parish quoad omnia," "parish quoad sacra" "one half-year's stipend" and "vacant stipend" are hereby repealed and in place of the meaning assigned therein to "vacant stipend" the following words shall be deemed to be part of section 3 of the said Order and the said Order shall be read and construed as if "vacant stipend" had from and after the passing of the Church of Scotland (Property and Endowments) Act 1925 the following meaning assigned to it viz.:—

> "Vacant stipend" means the stipend which accrues during the period of a vacancy in a benefice caused by the death translation resignation or deprivation of the minister thereof and which would have vested in such minister had he continued in possession thereof according to the law and practice applicable to the benefice for the time being excluding any augmentation of stipend not yet modified at the date of the death translation resignation or deprivation of such minister:

Terms of vesting of stipends for 3. Section 18 of the Order of 1923 is hereby repealed and in place thereof the following words shall be deemed and be taken to be section 18 of the said

Order and the said Order shall be read and construed as if the said section had from and after the passing of the Church of Scotland (Property and Endowments) Act 1925 been expressed as follows (that is to say) :— purposes of Order.

18. For the purposes of this Order the first minister of any parish which may hereafter be erected shall be deemed as having been admitted to his benefice on the day next after the date of erection of such parish and subject as hereinafter provided he shall be held to have enjoyed and to have had right to his benefice as from that day Provided that where the stipend in any such parish does not according to the law and practice applicable to the benefice for the time being vest de die in diem the first minister thereof shall be held to have enjoyed and to have had right to his benefice for one half-year at the first of the following dates—namely the fifteenth day of May and the twenty-ninth day of September—happening next after the date of such erection.

4. Section 27 of the Order of 1923 is hereby repealed and in place thereof the following words shall be deemed and be taken to be section 27 of the said Order and the said Order shall be read and construed as if the said section had from and after the passing of the Church of Scotland (Property and Endowments) Act 1925 been expressed as follows (that is to say) :— Vacant stipend.

27.—(*a*) "Vacant stipend" shall continue to be payable to the Fund subject to the provision that in the case of any benefice (other than a benefice to which subsection (*c*) hereof or the proviso to subsection (*d*) hereof is applicable) remaining vacant for a longer period than six months the vacant stipend accruing after the expiry of such period of six months shall no longer be payable to the Fund but shall be payable to and retainable by the General Trustees to be applied by them towards the cost of maintaining the ordinances of public worship in the parish to which the stipend is applicable or to such other purposes as they with the

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sanction of the General Assembly may lawfully apply the same and the Fund shall have no right or interest in any vacant stipend accruing after the expiry of the first six months of a vacancy in any benefice other than as aforesaid.

(*b*) Subject as and to the extent aforesaid vacant stipend shall henceforth be levied in manner hereinafter mentioned by the Trustees and paid to the collector who is hereby authorised to receive and discharge the same by himself or his deputy and who is also hereby authorised and required to apply the produce thereof to the purposes of the Fund under deduction of the expenses of collection.

Provided that nothing in this Order contained shall affect or be construed to affect any right which the widow and nearest of kin of a deceased minister may have by law in name of Ann.

(*c*) As often as vacant stipend shall arise in any benefice the stipend whereof is capable of standardisation in terms of the Church of Scotland (Property and Endowments) Act 1925 but has not yet been so standardised the clerk of the Presbytery within the bounds of which such benefice is situated is hereby expressly required within one month after the term of Whitsunday or Michaelmas at which such vacant stipend shall become due to make intimation thereof by a writing under his hand to the collector and shall transmit to the collector an attested copy of the locality of the stipend with a list of the several heritors with their addresses and the business addresses of agents or factors who represent heritors or others for the time being by whom such vacant stipend is payable and of the proportion thereof payable by each of them and such clerk is also hereby required within one month after such vacant stipend shall become due to give intimation or notice in writing to the several heritors and others by whom the same may be due that they are required under the authority of this Order

to make payment thereof to the collector or his deputy demanding the same provided that upon standardisation of the stipend of any such benefice the provisions of this subsection shall cease to apply.

(*d*) As often as vacant stipend shall arise in any benefice (other than a benefice to which the provisions of the immediately preceding subsection hereof are applicable) such vacant stipend shall subject as and to the extent aforesaid be collected by the General Trustees and the General Trustees shall within one month after the terms of Whitsunday and Martinmas in each year pay over to the collector of the Fund or his deputy all such vacant stipend to which the Fund may be entitled as hereinbefore provided under deduction of a charge at the rate of two per centum thereof to cover the expenses of collection and accounting.

Provided that in the event of vacant stipend being payable out of the income of properties and endowments (whether statutory or otherwise) which have not been transferred to or vested in the said General Trustees such vacant stipend shall be levied and collected on behalf of the Fund in accordance with the law and practice heretofore existing and in use.

Expenses of Order.

5. The costs charges and expenses of and incident to the preparing for obtaining and confirming of this Order or otherwise in relation thereto shall be paid out of the Fund.

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