



**Isle of Man**

*Ellan Vannin*

**SM 2 of 1990**

**CHURCH (MISCELLANEOUS  
PROVISIONS) MEASURE (ISLE OF MAN)  
1990**





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## **CHURCH (MISCELLANEOUS PROVISIONS) MEASURE (ISLE OF MAN) 1990<sup>1</sup>**

<i>Approved by Sodor and Man Diocesan Synod:</i>	10 May 1990
<i>Approved by Tynwald:</i>	17 July 1990
<i>Received Royal Assent:</i>	20 November 1990
<i>Announced to Tynwald:</i>	19 February 1991

A **MEASURE** enacted pursuant to the *Church (Application of General Synod Measures) Act 1979* to extend the Incumbents and Churchwardens (Trusts) Measure 1964, the Churchwardens (Appointment and Resignation) Measure 1964, the Clergy (Ordination and Miscellaneous Provisions) Measure 1964, the Church of England (Miscellaneous Provisions) Measure 1983, the Ecclesiastical Fees Measure 1986 and section 3 of the Deacons (Ordination of Women) Measure 1986 to the Isle of Man.

### **1 Incumbents and Churchwardens (Trusts) Measure 1964**

The Incumbents and Churchwardens (Trusts) Measure 1964<sup>2</sup> (a Measure of the Church Assembly) shall extend to the Isle of Man subject to the modifications specified in Schedule 1.

### **2 [Repealed]<sup>1</sup>**

### **3 Clergy (Ordination and Miscellaneous Provisions) Measure 1964**

The Clergy (Ordination and Miscellaneous Provisions) Measure 1964<sup>3</sup> (a Measure of the Church Assembly) shall extend to the Isle of Man subject to the modifications specified in Schedule 3.

<sup>1</sup> SM 2 of 1990 (formerly GC 1991/0003)

<sup>2</sup> 1964 No.2

<sup>3</sup> 1964 No.6

**4 Church of England (Miscellaneous Provisions) Measure 1983**

The Church of England (Miscellaneous Provisions) Measure 1983<sup>4</sup> (a Measure of the General Synod) shall extend to the Isle of Man subject to the modifications specified in Schedule 4.

**5 [Repealed]<sup>2</sup>****6 Deacons (Ordination of Women) Measure 1986**

Section 3 (provisions as to pensions etc.) of the Deacons (Ordination of Women) Measure 1986<sup>5</sup> (a Measure of the General Synod) shall extend to the Isle of Man.

**7 Short title and commencement**

- (1) This Measure may be cited as the Church (Miscellaneous Provisions) Measure (Isle of Man) 1990.
- (2) This Measure shall come into operation on such day or days as the Bishop may by order appoint.<sup>3</sup>

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<sup>4</sup> 1983 No.2

<sup>5</sup> 1986 No.4

## SCHEDULE 1

### MODIFICATIONS SUBJECT TO WHICH THE INCUMBENTS AND CHURCHWARDENS (TRUSTS) MEASURE 1964 EXTENDS TO THE ISLE OF MAN

#### *Interpretation*

1. In section 1 —
  - (a) omit the definition of "custodian trustee";
  - (b) in the definition of "endowments of the benefice", omit "and any land or personal property held by the incumbent under the Parsonages Measure 1938";
  - (c) in the definition of "incumbent", omit "but shall not include the curate in charge of a conventional district";
  - (d) in the definition of "land", omit "and mines and minerals, whether or not held apart from the surface,", "a manor and" and the words from "nor an undivided" onwards;
  - (e) in the definition of "parish", omit the words from "and includes" onwards;
  - (f) for the definition of "permanent trusts" substitute —
 

☞ "permanent trusts" means any trust of property which is held subject to a restriction on its being expended without distinction between capital and income. ☞.

#### *Property to which Measure applies*

2. (1) In section 2(2) —
  - (a) in paragraph (a), after "office," insert "or in an incumbent and churchwardens,";
  - (b) omit paragraphs (b), (c) and (d).
- (2) In section 2(3), omit the words "or, during a vacancy in a see, the guardian of the spiritualities:" and the proviso.<sup>4</sup>

#### *Vesting of property in diocesan authority*

3. (1) In section 3(1), for "commencement of this Measure" substitute "extension of this Measure to the Isle of Man", and at the end insert "and of the trusts to which the interest is subject".<sup>5</sup>
- (2) After section 3(2) insert —
 

☞(2A) Subject to the following provisions of this Measure, where any interest is vested in the diocesan authority as custodian trustee —

- (a) the management of the trust property and the exercise of any power or discretion exercisable by the trustees under the trust shall remain vested in the trustees other than the custodian trustee ("the managing trustees");
- (b) as between the custodian trustee and the managing trustees, and subject to the rights of any other persons, the custodian trustee shall have the custody of all securities and documents of title relating to the trust property, but the managing trustees shall have free access to them and be entitled to take copies thereof or extracts from them;
- (c) the custodian trustee shall concur in and perform all acts necessary to enable the managing trustees to exercise their powers of management or any other power or discretion vested in them (including the power to pay money or securities into court), unless the matter in which it is requested to concur is a breach of trust, or involves a personal liability upon it in respect of calls or otherwise, but unless it so concurs the custodian trustee shall not be liable for any act or default on the part of the managing trustees or any of them;
- (d) all sums payable to or out of the income or capital of the trust property shall be paid to or by the custodian trustee, except that the custodian trustee may allow the dividends and other income derived from the trust property to be paid to the managing trustees or to such person as they may direct, or into such bank for the credit of such person as they may direct, and in such case shall be exonerated from seeing to the application of them and shall not be answerable for any loss or misapplication of them;
- (e) the power of appointing new trustees, when exercisable by the trustees, shall be exercisable by the managing trustees alone, but the custodian trustee shall have the same power of applying to the court for appointment of a new trustee as any other trustee;
- (f) in determining the number of trustees for the purpose of the *Trustee Act 1961* (an Act of Tynwald) the custodian trustee shall not be reckoned as a trustee;
- (g) the custodian trustee, if it acts in good faith, shall not be liable for accepting as correct and acting upon the faith of any written statement by the managing trustees as to any matter of fact upon which the title to the trust property or any part thereof may depend, nor for acting on any legal advice obtained by the managing trustees independently of the custodian trustee. 

(3) In section 3(3), for the words from "paragraph (b)" onwards substitute "section 39(1)(b) of the *Trustee Act 1961* (an Act of Tynwald)".

(4) In section 3(6), for "the High Court or the Charity Commissioners" substitute "Her Majesty's High Court of Justice of the Isle of Man".

*Consent of diocesan authority to acquisition of property*

4. In section 4, for "commencement of this Measure" substitute "extension of this Measure to the Isle of Man".

*Provisions as to property vested in diocesan authority*

5. In section 5, omit "either from the Charity Commissioners or otherwise".

*Notification and accounts of trusts<sup>6</sup>*

5A. After section 5 insert —

**5A Notification of certain trusts**

- (1) Where an incumbent or churchwardens hold, acquire or administer any fund held on trust for ecclesiastical purposes of the Church of England, which exceeds the prescribed amount in value but is not an interest to which this Measure applies, it shall be their duty to inform the diocesan authority of the fund and of the trusts to which it is subject.
- (2) In subsection (1) "the prescribed amount" has the meaning given by section 6(2B) of the *Parochial Church Councils (Powers) Measure 1956*.

**5B. Trust accounts**

- (1) Every incumbent or churchwardens shall cause —
  - (a) the accounts of every charity administered by them to which this subsection applies, for each year ending on 31st December, and
  - (b) a statement of the funds and property of the charity at that date,
 to be made up and examined in accordance with subsection (2).
- (2) Subsection (1) applies to an ecclesiastical charity whose gross income in the year in question exceeds £25,000 or such higher amount as may for the time being substituted for that amount in section 27(2) of the *Charities Registration and Regulation Act 2019* (an Act of Tynwald).<sup>7</sup>

- (3) The accounts and statement referred to in subsection (1) shall be examined by an independent person who —
- (a) is an accountant (within the meaning of the *Interpretation Act 1915* (an Act of Tynwald));<sup>8</sup>
  - (b) holds a qualification prescribed by regulations under section 46 of the *Charities Registration and Regulation Act 2019* (an Act of Tynwald); or<sup>9</sup>
  - (c) is for the time being approved by the Bishop for the purpose of examining the accounts and statement in question.
- (4) The incumbent or churchwardens shall —
- (a) present to the annual parochial church meeting of the parish —
    - (i) the accounts of every ecclesiastical charity administered by them for the year ending on the 31st December immediately preceding the meeting, and<sup>10</sup>
    - (ii) the statement of the funds and property of the charity at that date, and<sup>11</sup>
  - (b) not later than 7 days before the annual parochial church meeting cause a copy of the examined accounts and statement to be published and affixed for a period of at least 14 days on or near the principal door of every church and other building licensed for public worship in the parish, and
  - (c) not later than 14 days after the annual parochial church meeting send a copy of the examined accounts and statement to the diocesan authority.
- (5) In relation to a charity to which subsection (1) applies, the references in subsection (4) to the accounts and statement of funds and property of the charity are to the accounts and statement examined in accordance with subsection (3).
- (6) In this section "ecclesiastical charity" has the same meaning as in Schedule 3 to the *Church Act 1992* (an Act of Tynwald).
- (7) Nothing in this section applies to accounts to which section 17 of the *Burials Act 1986* (an Act of Tynwald) applies. <sup>12</sup>

*Short title etc.*

6. Omit section 6(2) and (3).

*Vesting of property*

7. (1) The Schedule is modified as follows.

- (2) In paragraph 2, for "to the incumbent and to the Charity Commissioners" substitute "and to the incumbent".
- (3) Omit paragraph 3.
- (4) In paragraph 5 —
  - (a) omit the words from "If the Charity" to "they have made and";
  - (b) for "(2) and (3)" substitute "(2), (2A) and (3)".

**SCHEDULE 2<sup>13</sup>**



### SCHEDULE 3

#### MODIFICATIONS SUBJECT TO WHICH THE CLERGY (ORDINATION AND MISCELLANEOUS PROVISIONS) MEASURE 1964 EXTENDS TO THE ISLE OF MAN

*Miscellaneous provisions*

1. Omit sections 10 and 11.

*Vacancy in see*

2. Omit section 12.

*Extent*

3. Omit section 13.

**SCHEDULE 4****MODIFICATIONS SUBJECT TO WHICH THE CHURCH OF ENGLAND  
(MISCELLANEOUS PROVISIONS) MEASURE 1983 EXTENDS TO THE ISLE OF  
MAN***Miscellaneous provisions*

1. Omit sections 1, 2, 3, 4 and 6.

*Discharge of certain functions of bishop*

2. [Repealed]<sup>14</sup>

*Discharge of certain functions of archdeacon*

3. In section 9(4), omit the words from "or section 2(2)" onwards.

*Miscellaneous provisions*

4. Omit sections 11 and 12.

*Short title etc.*

5. Omit section 13(2) and (3).

**SCHEDULE 5<sup>15</sup>**

## ENDNOTES

### Table of Endnote References

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- <sup>1</sup> S 2 repealed by Churchwardens Measure (Isle of Man) 2013 Sch 2.
- <sup>2</sup> S 5 repealed by Church Fees Measure (Isle of Man) 2014 Sch 4.
- <sup>3</sup> ADO – Sections 3 to 7 and Schedules 3 to 5 in operation 01 April 1991; sections 1 & 2 and Schedules 1 & 2 in operation 01 January 1992 [GC 40/91].
- <sup>4</sup> Subpara (2) substituted by Mission and Pastoral (Amendment) Measure (Isle of Man) 2018 Sch 3.
- <sup>5</sup> Subpara (1) substituted by Parochial Church Councils and Accounts Measure (Isle of Man) 2010 s 2.
- <sup>6</sup> Cross-heading inserted by Parochial Church Councils and Accounts Measure (Isle of Man) 2010 s 2.
- <sup>7</sup> Inserted subsection (2) amended by Charities Registration and Regulation Act 2019 s 63.
- <sup>8</sup> Inserted para (a) amended by Charities Registration and Regulation Act 2019 s 63.
- <sup>9</sup> Inserted para (b) amended by Charities Registration and Regulation Act 2019 s 63.
- <sup>10</sup> Inserted subpara (i) amended by Churchwardens Measure (Isle of Man) 2013 Sch 2.
- <sup>11</sup> Inserted subpara (ii) amended by Churchwardens Measure (Isle of Man) 2013 Sch 2.
- <sup>12</sup> Para 5A inserted by Parochial Church Councils and Accounts Measure (Isle of Man) 2010 s 2.
- <sup>13</sup> Sch 2 repealed by Churchwardens Measure (Isle of Man) 2013 Sch 2.
- <sup>14</sup> Para 2 repealed by Mission and Pastoral (Amendment) Measure (Isle of Man) 2018 Sch 4.
- <sup>15</sup> Sch 5 repealed by Church Fees Measure (Isle of Man) 2014 Sch 4.