



Isle of Man

Ellan Vannin

SM 1 of 2013

**CHURCHWARDENS MEASURE (ISLE OF
MAN) 2013**



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| <i>Approved by Sodor and Man Diocesan Synod:</i> | <i>25 June 2013</i> |
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| <i>Announced to Tynwald:</i> | <i>10 December 2013</i> |

A **MEASURE** enacted pursuant to the *Church Legislation Procedure Act 1993* to make new provision with respect to churchwardens.

1 Short title

The short title of this Measure is the Churchwardens Measure (Isle of Man) 2013.

2 Commencement

Except for the purpose of making or approving a scheme under section 4, this Measure comes into operation on such day as the Bishop may by order appoint.¹

3 Interpretation

In this Measure —

“**actual communicant**” has the same meaning as in the Church Representation Rules;

“**annual meeting of the parishioners**” means a meeting of the parishioners held pursuant to section 7(3);

“**casual vacancy**” includes a case where no or insufficient candidates have been nominated to fill the places available;

references to the Church Representation Rules are to those Rules as they have effect in the Island;

“**commencement**” means the date on which this Measure comes into operation;

“**diocesan safeguarding advisor**” means the person appointed as such for the diocese of Sodor and Man in accordance with provision made by Canon;²

¹ SM 1 of 2013 (formerly SD 2013/0435)

“**meeting of the parishioners**” has the meaning given by section 7(2);

“**minister**”, in relation to a parish, means —

- (a) the incumbent of the benefice the area of which comprises or includes the parish;
- (b) if that benefice is vacant, a priest licensed to the charge of, or acting as priest-in-charge of, the parish; or
- (c) if the duties of a minister are assigned to a vicar in a team ministry by a pastoral scheme or his or her licence from the Bishop, that vicar;

“**parish**” means an ecclesiastical parish;

“**pastoral scheme**” has the same meaning as in the *Mission and Pastoral Measure (Isle of Man) 2012*;

“**register of electors**” means a register of electors in force under the *Registration of Electors Act 2006*;

“**year**” means a year ending on 31st December.

4 Number of churchwardens

- (1) For each parish there shall be such number of churchwardens (being not less than 2) as is specified in a scheme made by the Church Commissioners.
- (2) A scheme under subsection (1) shall designate a parish in relation to each ancient ecclesiastical parish for the purposes of section 14 of the *Burials Act 1986*.
- (3) A scheme under subsection (1) shall not have effect unless it is approved by the Sodor and Man Diocesan Synod.³

5 Qualifications and disqualifications

- (1) Subject to subsections (2) to (6), the churchwardens of every parish shall be elected from persons —
 - (a) who have been baptised;
 - (b) whose names are on the church electoral roll of the parish;
 - (c) who are actual communicants;
 - (d) who are 18 years of age or upwards; and
 - (e) who are not disqualified under subsection (2).
- (2) A person is disqualified for being a churchwarden if he or she —
 - (a) has been convicted of —
 - (i) any offence involving dishonesty or deception, or
 - (ii) any offence mentioned in Schedule 1 to the *Children and Young Persons Act 1966*;

- (b) has been adjudged bankrupt and has not been discharged;
 - (c) has made a composition or arrangement with his or her creditors and has not been discharged in respect of it;
 - (d) has been removed from the office of trustee of a charity by an order made by the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he or she was responsible or to which he or she was privy, or which he or she by conduct contributed to or facilitated;
 - (e) is subject to a disqualification order or disqualification undertaking under the *Company Officers (Disqualification) Act 2009*.
- (3) In subsection (2) —
- (a) paragraph (a) applies wherever the conviction occurred, and whether before or after commencement, but does not apply in relation to any conviction which is a spent conviction for the purposes of the *Rehabilitation of Offenders Act 2001*;
 - (b) paragraph (b) applies wherever the adjudication occurred, and whether before or after commencement;
 - (c) paragraph (c) applies wherever the composition or arrangement was made, and whether before or after commencement; and
 - (d) paragraphs (d) and (e) apply in relation to orders made, removals effected and undertakings given before or after commencement.
- (3A) A person is disqualified for being chosen for the office of churchwarden if he or she is included in a barred list (within the meaning of the *Safeguarding Vulnerable Groups Act 2006* (an Act of Parliament)).⁴
- (4) Subject to subsection (6), a person is disqualified for being a churchwarden when he or she has served as a churchwarden of the same parish for 6 successive periods of office.
- (5) A disqualification under subsection (4) lasts for one year beginning with the date on which the churchwarden vacated office at the end of the last such period.
- (6) A meeting of the parishioners may by resolution —
- (a) decide that subsection (4) shall not apply in relation to the parish concerned; or
 - (b) revoke a previous resolution under paragraph (a).
- (7) Any custom or rule of common law whereby certain persons are disqualified for being a churchwarden shall cease to have effect.

6 Removal or waiver of disqualification

- (1) This section applies if it appears to the Bishop, in the case of any particular person who, apart from this section, —

- (a) would not be qualified by virtue of paragraph (b), (c) or (d) of section 5(1), or
 - (b) would be disqualified under section 5(2) or (4),⁵
- that there are exceptional circumstances which justify a dispensation from the provision in question.
- (2) In a case falling within subsection (1)(a), the Bishop may in writing permit that person to hold the office of churchwarden even though the requirement in question is not met.
 - (3) In a case falling within subsection (1)(b), the Bishop may waive the disqualification in question by giving written notice to the person concerned; and the notice must specify the Bishop's reasons for giving the waiver.⁶
 - (4) Before giving a waiver under subsection (3) in respect of a disqualification imposed by section 5(2)(a)(ii), the Bishop must consult —
 - (a) the diocesan safeguarding advisor, and
 - (b) such other persons as the Bishop considers appropriate.⁷
 - (5) On giving a notice under subsection (3), the Bishop shall give a copy of the notice to the Diocesan Registrar; and the Registrar shall file the copy in the diocesan registry.⁸
 - (6) A permission under subsection (2) applies only to the period of office next following the date on which it is given.⁹
 - (7) A waiver under subsection (3) is of unlimited duration.¹⁰

7 Election of churchwardens

- (1) The churchwardens of a parish shall be elected by a meeting of the parishioners.
- (2) A meeting of the parishioners for the purposes of this Measure is a joint meeting of —
 - (a) the persons whose names are entered on the church electoral roll of the parish;
 - (b) the persons resident in the parish whose names are entered on a register of electors by reason of such residence; and
 - (c) in the case of a parish designated under section 4(2), the persons resident in the ancient ecclesiastical parish in question whose names are entered on a register of electors by reason of such residence.
- (3) An annual meeting of the parishioners must be held in every parish not later than 30th April in each year.

- (4) Subject to subsection (5), a casual vacancy among the churchwardens must be filled at a special meeting of the parishioners as soon as practicable after the vacancy has arisen.
- (5) A special meeting to fill a casual vacancy arising on or after 1st January need not be held if —
 - (a) at least 2 churchwardens remain in office, or
 - (b) the annual meeting of the parishioners is to be held before the expiration of one month after the vacancy arises.
- (6) Schedule 1 has effect with respect to meetings of the parishioners and elections of churchwardens.

8 Term of office

Subject to sections 9 and 11, a churchwarden holds office from the end of the meeting of the parishioners at which he or she was elected until the end of the next annual meeting of the parishioners.

9 Admission to office

- (1) A person elected to the office of churchwarden must appear before the Chapter Court and take the oath of office at a time and place appointed by the Vicar General.
- (2) If a person elected to the office of churchwarden fails to comply with the requirement of subsection (1) before the relevant date, his or her office shall become vacant on that date.
- (3) In subsection (2) “the relevant date” means —
 - (a) in the case of a churchwarden elected at an annual meeting of the parishioners, 1st August following the meeting;
 - (b) in any other case, the expiration of 3 months beginning with the date of the meeting at which the churchwarden was elected.

9A Suspension

- (1) This section applies where —
 - (a) a churchwarden is arrested on suspicion of committing an offence mentioned in Schedule 1 to the *Children and Young Persons Act 1966* or is charged with such an offence without being arrested, or
 - (b) the Bishop is satisfied, on the basis of information provided by a Department or the Chief Constable, that a churchwarden presents a significant risk of harm.
- (2) The Bishop may suspend the person from the office of churchwarden by giving written notice to him or her; and the notice must specify the Bishop’s reasons for imposing the suspension.

- (3) The Bishop may at any time revoke a suspension under this section by giving written notice to the person.
- (4) For the purposes of subsection (1)(b), a person presents a significant risk of harm if there is a significant risk that he or she may –
 - (a) harm a child or vulnerable adult,
 - (b) cause a child or vulnerable adult to be harmed,
 - (c) put a child or vulnerable adult at risk of harm,
 - (d) attempt to harm a child or vulnerable adult, or
 - (e) incite another person to harm a child or vulnerable adult.
- (5) Before suspending a person in reliance on subsection (1)(b) or revoking a suspension made in reliance on subsection (1)(b), the Bishop must consult –
 - (a) the diocesan safeguarding advisor, and
 - (b) such other persons as the Bishop considers appropriate.
- (6) Having given a notice of suspension or revocation under this section, the Bishop shall give each of the following written notification –
 - (a) the Archdeacon,
 - (b) the clergy who hold office in the parish,
 - (c) the other churchwarden or churchwardens of the parish,
 - (d) the Diocesan Registrar,
 - (e) the diocesan safeguarding advisor, and
 - (f) such other persons as the Bishop considers appropriate.
- (7) The Registrar shall file the notification given under subsection (6)(d) in the diocesan registry.
- (8) In this section –

“child” means a person aged under 18;

“vulnerable adult” means a person aged 18 or over whose ability to protect himself or herself from violence, abuse, neglect or exploitation is significantly impaired through physical or mental disability or illness, old age, emotional fragility or distress, or otherwise; and for that purpose, the reference to being impaired is to being temporarily or indefinitely impaired.¹¹

9B Duration of suspension

- (1) Where, in reliance on section 9A(1)(a), a notice of suspension is given under section 9A(2) and the suspension has not been revoked under section 9A(3) or 9C(2), the suspension continues until the earlier of –
 - (a) the expiry of 3 months beginning with the day on which the notice is given, and

- (b) the conclusion of the matter.
- (2) If, in the case of a suspension made in reliance on section 9A(1)(a), the matter is not concluded before the expiry of the period referred to in subsection (1)(a), a further notice of suspension under section 9A(2) may be given to the person; and subsection (1) and this subsection apply to the further suspension as they applied to the earlier suspension or suspensions.
- (3) Where, in reliance on section 9A(1)(b), a notice of suspension is given under section 9A(2) and the suspension has not been revoked under section 9A(3) or 9C(2), the suspension continues until the expiry of 3 months beginning with the day on which the notice is given.
- (4) In the case of a suspension made in reliance on section 9A(1)(b), a further notice of suspension under section 9A(2) may be given to the person; and subsection (3) and this subsection apply to the further suspension as they applied to the earlier suspension or suspensions.
- (5) For the purposes of this section, a matter is concluded when —
 - (a) a decision is taken not to charge the person with the offence in question, or
 - (b) where he or she is charged with the offence, the proceedings for the offence are concluded.¹²

9C Appeal against suspension

- (1) A person to whom a notice of suspension is given under section 9A(2) may appeal against the suspension to the Vicar General.
- (2) On an appeal under this section, the Vicar General may, within 28 days following the lodging of the appeal, either confirm or revoke the suspension.¹³

10 Exercise of functions

- (1) If a parish has more than 2 churchwardens, the churchwardens may arrange for the exercise by some of their number, designated by name, of any functions of theirs which are specified in the arrangement (other than functions under this section) in relation to —
 - (a) if the parish has more than one parish church, any of the parish churches;
 - (b) any parish burial ground in the parish;
 - (c) any parish trust; or
 - (d) with the consent of the Bishop, any other matter.
- (2) An arrangement under subsection (1) —

- (a) must be made by the churchwardens of the parish acting unanimously;
 - (b) must be in writing, in a form approved by the Bishop; and
 - (c) must designate at least 2 churchwardens in respect of any function to which it relates; and
 - (d) may authorise a specified number, not less than 2, of the churchwardens so designated to exercise that function on behalf of them all.
- (3) While an arrangement under subsection (1) is in force in relation to any function, the churchwardens designated under subsection (2)(c) are to be treated, in respect of that function, as being the churchwardens of the parish to the exclusion of the other churchwardens.
- (4) An arrangement under subsection (1) —
- (a) may be varied or cancelled by a subsequent arrangement under that subsection;
 - (b) may be cancelled by a resolution passed by a majority of the churchwardens; and
 - (c) ceases to have effect in relation to the exercise of any function if at any time the churchwardens of the parish cease to include at least 2 persons designated under subsection (2)(c) in respect of that function.
- (5) The churchwardens must —
- (a) send to the Diocesan Registrar a copy of any arrangement under subsection (1) and of any resolution under subsection (4)(b); and
 - (b) notify the Diocesan Registrar in writing that such an arrangement has ceased to have effect under subsection (4)(c).
- (6) If such an arrangement relates to a matter falling within subsection (1)(b) or (c), the churchwardens must also send such a copy, and give a like notification, to the Department of Infrastructure and the Diocesan Registrar.¹⁴
- (7) In this section —
- “ecclesiastical charity” has the same meaning as in Schedule 3 to the *Church Act 1992*;
- “parish burial ground” has the same meaning as in the *Burials Act 1986*;
- “parish trust” means an ecclesiastical charity of which the churchwardens of a parish are trustees, whether alone or jointly with the incumbent of the parish or any other person.

11 Resignation etc.

- (1) A person may resign the office of churchwarden by sending to the Bishop by post written notice of his or her intention to resign, and not otherwise.
- (2) The resignation shall have effect and the office shall be vacated —
 - (a) at the end of the period of 2 months following the date when the notice is sent to the Bishop; or
 - (b) on such earlier date as may be determined by the Bishop after consultation with the minister and any other churchwarden of the parish.
- (3) The office of a churchwarden of a parish is vacated if —
 - (a) his or her name is removed from the church electoral roll of the parish under rule 1 of the Church Representation Rules;
 - (b) his or her name is not on a new church electoral roll of the parish prepared under rule 2(4) of those Rules;
 - (c) he or she ceases to be qualified under section 5(1) or becomes disqualified under section 5(2) or (3A);¹⁵
 - (d) he or she fails to attend any meeting of the parochial church council of the parish for a continuous period of 6 months beginning with the date of the first meeting he or she failed to attend; or
 - (e) he or she is absent from the Island for a continuous period of 3 months without the written agreement of the other churchwarden or churchwardens of the parish.
- (4) Where the office of churchwarden is vacated under subsection (3)(c) on a person becoming disqualified under section 5(2), he or she may resume the office if the disqualification is waived under section 6(3) and the office has remained vacant.¹⁶

12 Special provisions

- (1) In the carrying out of the provisions of this Measure the Bishop may —
 - (a) make provision for any matter not provided for in this Measure;
 - (b) appoint a person to do any act in respect of which there has been any neglect or default on the part of any person or body charged with any duty under this Measure;
 - (c) so far as may be necessary for the purpose of giving effect to the intentions of this Measure, extend or alter the time for holding any meeting or election or to modify the procedure laid down by this Measure in connection with it;

- (d) in any case in which there has been no valid election, direct a fresh election to be made, and to give such directions in connection with it as he may think necessary; and
 - (e) in any case in which any difficulty arises, give any directions which he may consider expedient for the purpose of removing the difficulty.
- (2) The powers of the Bishop under this section do not enable him to validate anything that was invalid at the time it was done.

13 Transitional provision

Subject to section 11 (except subsection (3)(c)), a churchwarden holding office immediately before commencement shall continue to hold office until the end of the next annual meeting of the parishioners.

14 Minor and consequential amendments etc.

- (1) Section 14 of the *Burials Act 1986* is amended as follows —
- (a) [Amended subsections (3) and (7)]
 - (b) [Amended subsection (8)]
- (2) The Church Representation Rules are further modified by the omission of paragraph (2) of rule 14.
- (3) The enactments mentioned in Schedule 2 are repealed to the extent specified in the third column of that Schedule.

SCHEDULE 1

RULES FOR ELECTION OF CHURCHWARDENS

Convening of meeting of the parishioners

1. (1) The meeting of the parishioners must be convened by —
 - (a) the minister, or
 - (b) during any period when there is no minister or when the minister is unable or unwilling to do so, the churchwardens of the parish,by a notice signed by the minister or a churchwarden, as the case may be.
- (2) The notice must state the day, time and place at which the meeting is to be held.
- (3) The notice must be affixed on or near to the principal door of —
 - (a) every parish church in the parish;
 - (b) every church building or part of a building in the parish which is designated as a parish centre of worship under section 17(2) of the *Mission and Pastoral Measure (Isle of Man) 2012*; and
 - (c) every other building licensed for public worship in the parish,for a period including the last 2 Sundays before the meeting.

Proceedings of meeting

2. (1) The minister, if present, or, if he or she is not present, a chairman chosen by the meeting of the parishioners shall preside at the meeting of the parishioners.
- (2) All persons entitled to attend the meeting, other than the minister, are entitled to vote at the election of churchwardens.
- (3) In case of an equal division of votes on any question, the chairman of the meeting shall not have a second or casting vote and the motion on that question shall be treated as lost.
- (3) The meeting may adjourn, and may determine its own rules of procedure.
- (4) A person appointed by the meeting shall act as clerk of the meeting and shall record the minutes of the meeting.

Nominations

3. (1) Candidates for election at the meeting of the parishioners must be nominated and seconded in writing by persons entitled to attend the meeting.
- (2) Each nomination paper must include a statement, signed by the person nominated, to the effect that he or she —

- (a) is willing to serve as a churchwarden, and
 - (b) is not disqualified under section 5.
- (3) A nomination is not valid unless —
- (a) it is received before the beginning of the meeting by —
 - (i) the minister of the parish; or
 - (ii) during any period when there is no minister, the churchwarden by whom the notice convening the meeting was signed; and
 - (b) where section 6 applies, the Bishop's permission or waiver was given under section 6(2) or (3) before the nomination paper is received by the minister or churchwarden, as the case may be.

Conduct of elections

4. Subject to paragraphs 2 and 3, elections of churchwardens by the meeting of the parishioners must be conducted and announced in the same manner as elections under rule 11 of the Church Representation Rules.

Return of elections

5. The person presiding at the meeting of the parishioners must, within 7 days after the meeting, notify the Diocesan Registrar in writing of the full name and address of each churchwarden elected by the meeting.

SCHEDULE 2

REPEALS

Section 14(3).

| Reference | Short title | Extent of repeal |
|------------------|---|---|
| II p.124 | St Jude's Chapel Act 1839 | Section 3 |
| GC 3.91 | Church (Miscellaneous Provisions) Measure (Isle of Man) 1990 | Section 2 Schedule 2 |
| SD 714/96 | Incumbents (Pastoral Breakdown) Measure (Isle of Man) 1996 | In section 10(6), the words "churchwarden or". |
| SD 958/10 | Parochial Church Councils and Accounts Measure (Isle of Man) 2010 | In section 2(1)(b), in the inserted section 5B(4)(a)(i) and (ii), the word "examined". Section 2(2). |
| SD 654/12 | Mission and Pastoral Measure (Isle of Man) 2012 | In Schedule 8, paragraph 4. |

ENDNOTES**Table of Endnote References**

- ¹ ADO – Whole Measure in operation 01 January 2015 [SD 2014/0371].
- ² Definition of “diocesan safeguarding adviser” inserted by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 2.
- ³ Editorial Note - Churchwardens Scheme 2014 [SD 2014/0370].
- ⁴ Subs (3A) inserted by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 2.
- ⁵ Para (b) substituted by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 2.
- ⁶ Subs (3) substituted by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 2.
- ⁷ Subs (4) substituted by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 2.
- ⁸ Subs (5) inserted by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 2.
- ⁹ Subs (6) inserted by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 2.
- ¹⁰ Subs (7) inserted by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 2.
- ¹¹ S 9A inserted by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 2.
- ¹² S 9B inserted by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 2.
- ¹³ S 9C inserted by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 2.
- ¹⁴ Subs (6) amended by Central registry Act 2018 Sch.
- ¹⁵ Para (c) amended by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 2.
- ¹⁶ Subs (4) inserted by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 2.