



Isle of Man

Ellan Vannin

SM 2 of 2019

**ECCLESIASTICAL JURISDICTION AND
CARE OF CHURCHES MEASURE (ISLE OF
MAN) 2019**



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<i>Approved by Sodor and Man Diocesan Synod:</i>	<i>28 June 2018</i>
<i>Approved by Tynwald:</i>	<i>15 January 2019</i>
<i>Received Royal Assent:</i>	<i>9 April 2019</i>
<i>Announced to Tynwald:</i>	<i>9 April 2019</i>

A **MEASURE** enacted pursuant to the *Church Legislation Procedure Act 1993* to extend to the Island certain provisions of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018; and for connected purposes.

Short title

1 Short title

The short title of this Measure is the Ecclesiastical Jurisdiction and Care of Churches Measure (Isle of Man) 2019.

2 Commencement

This Measure comes into operation on such day or days as the Bishop may by order appoint.

3 Extension of provisions of 2018 Measure to the Isle of Man

Parts 1 and 3 to 6 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 extend to the Island subject to the exceptions, adaptations and modifications specified in Schedule 1.

4 Consequential amendments and repeals

- (1) The enactments specified in Schedule 2 are amended in accordance with that Schedule.
- (2) The enactments specified in Schedule 3 are repealed to the extent specified in column 3 of that Schedule.

SCHEDULE 1

Section 3

MODIFICATIONS ETC. SUBJECT TO WHICH THE 2018 MEASURE EXTENDS TO THE ISLAND

PART 1 — THE ECCLESIASTICAL COURTS

1. (1) In section 1(2), omit the words from "or, in the case" onwards
(2) Omit section 1(3).
2. (1) In section 2(2), for the words from "or, in the case" onwards substitute "or the Vicar General of the diocese".
(2) Omit section 2(3).
(3) In section 2(4), for paragraph (b) substitute —
 | **24**(b) is a barrister or solicitor, or an advocate of the Manx bar, of
 | at least 7 years' standing. **25**.
(4) In section 2(6), omit paragraph (a).
3. Omit section 3(10).
4. In section 4(7)(a), for "three months" substitute "six months".
5. Omit section 5.
6. (1) In section 6(2), after "oaths" insert "referred to in subsection (1)".
(2) After section 6(3) insert —
 | **26**(4) The chancellor of the diocese of Sodor and Man must, before
 | entering on the execution of the office, take and subscribe before a
 | Deemster the oath heretofore taken and subscribed before a
 | Deemster by the chancellor of that diocese on appointment to that
 | office. **27**
7. In section 7(1) —
 - (a) omit paragraphs (c) and (e);
 - (b) in paragraph (f), for "section 71 of that Measure" substitute "paragraph 11 of Schedule 3 to the *Mission and Pastoral Measure (Isle of Man) 2012*".

8. After section 8 insert —

14 *The chapter court*

8A The chapter court

- (1) There shall continue to be a chapter court for the diocese of Sodor and Man.
 - (2) The chancellor of the diocese of Sodor and Man is the judge of the chapter court.
 - (3) The chancellor is to continue to exercise the jurisdiction and functions of that court. **12**.
9. (1) In section 14(1), for the words from the beginning to "each have" substitute "The Chancery Court of York has".
- (2) Omit section 14(2).
 - (3) In section 14(4)(b), omit "(2) or".
 - (4) In section 14(5), for the words from "the Arches" to "situated)" substitute "the Chancery Court of York".
10. (1) In section 15(1), omit "the Arches Court of Canterbury or".
- (2) In section 15(2) and (3), for "either Court" substitute "that Court".
11. (1) In section 18(5)(b) and (6), omit "the Arches Court of Canterbury or" and ", as appropriate,".
- (2) In section 18(7), omit "the Arches Court of Canterbury or".
12. In section 21(1), omit "the Arches Court of Canterbury or".
13. (1) Omit section 22(1).
- (2) In section 22(3) and (4), omit "Canterbury or".
 - (3) In section 22(6), for "by a surrogate of the Vicar General" substitute "by a surrogate".
 - (4) In section 22(7), omit the words from "and (b)" onwards.
 - (5) In section 22(9) —
 - (a) omit "of the Vicar-General of a diocese";
 - (b) for "office of that Vicar-General" substitute "diocesan see".
 - (6) Omit section 22(10).
14. Omit section 25(5)(c) and (d).
15. For section 26(7) substitute —

- 66(7) Costs ordered to be paid under this section are recoverable as if the order were a judgment or order of the High Court for the payment of money. 62.

PART 3 – CARE OF CHURCHES ETC.

16. For section 36(2) and (3) substitute –

- 66(2) Schedule 2 has effect as to the constitution of the advisory committee.
- (3) The diocesan synod may by resolution –
- (a) amend Schedule 2; or
 - (b) make provision as to the proceedings of the advisory committee. 62

17. (1) In section 37(2)–

- (a) for paragraph (c) substitute –
 - 66(c) the archdeacon; 62;
- (b) for paragraph (f) substitute –
 - 66(f) the Church Commissioners for the Isle of Man; 62.

- (2) In section 37(11), omit the words from "and the secretary" onwards.

18. Omit sections 38 to 44.

19. (1) In the heading to section 45, for "church or building in the list" substitute "churches".

- (2) In section 45(1) –

- (a) for "or the bishop under section 1 or 1B of the Inspection of Churches Measure 1955" substitute "under section 1 of the *Church Act 1979* (an Act of Tynwald)";
- (b) omit "or relevant building".

- (3) In section 45(2) –

- (a) in paragraphs (b) and (c), omit "or relevant buildings";
- (b) in paragraph (d)(i), omit "of the archdeaconry in which the church is situated";
- (c) omit paragraph (e);
- (d) in paragraph (f), for "section 1(2)(e) or 1B(1) of the Inspection of Churches Measure 1955" substitute "section 1(2)(e) of the *Church Act 1979* (an Act of Tynwald)", and omit "or bishop".

- (4) In section 45(3) –

- (a) omit the words from "(regardless" to "bishop)";
- (b) in paragraph (b), for "(2)(a) to (e)" substitute "(2)(a) to (d)";

- (c) in paragraph (c), for "48" substitute "47".
- (5) For section 45(4) substitute —
 - 45(4) A scheme established under subsection (3) and passed at a meeting of the diocesan synod comes into operation —
 - (a) on such date as may be specified in it, or
 - (b) if no such date is specified, on the date on which it is passed. 45.
- (6) Omit section 45(5).
- (7) In section 45(6)(a), for "Architects Act 1997" substitute "*Architects Act 1976 (an Act of Tynwald)*".
- 20. In section 46(1) —
 - (a) in paragraph (c), for the words from "Council" to "jointly" substitute "Manx Museum and National Trust";
 - (b) omit paragraph (d).
- 21. In section 47(1), omit "in the archdeaconry" (in each place).
- 22. Omit section 48.
- 23. (1) In section 49(1) and (2), for "maintaining" substitute "required to maintain".
 - (2) In section 49(4), for "Church Buildings Council" substitute "bishop of the diocese".
- 24. Omit section 51.
- 25. In section 52(1), omit "in the archdeaconry" and "there".
- 26. (1) In section 53(1), omit "in the archdeaconry".
 - (2) In section 53(11), for "section 10(1) of the Parochial Registers and Records Measure 1978" substitute "*the Church Records Measure (Isle of Man) 2000*".
- 27. Omit section 54.
- 28. (1) In section 55(1) —
 - (a) omit the definitions of "diocesan board of finance", "the list" and "national amenity society";
 - (b) for the definition of "advisory committee" substitute —
 - 45 "advisory committee" means the Diocesan Advisory Committee; 45;
 - (c) in the definition of "minister", for "Mission and Pastoral Measure 2011" substitute "*Mission and Pastoral Measure (Isle of Man) 2012*";
 - (d) for the definition of "parish" substitute —

39. In section 74(1), omit "of every archdeaconry in a diocese" and "relating to the archdeaconry".
40. (1) In section 75(1), omit "of every archdeaconry" and "in his or her archdeaconry".
(2) In section 75(2), omit "in relation to the archdeaconry".
41. In section 76(1), omit "in the archdeaconry".
42. (1) In section 77(7), omit paragraphs (a), (b), (c), (g) and (i).
(2) Omit section 77(8).
43. In section 78(6), for paragraph (b) substitute —
| **93**(b) the archdeacon, and **92**.
44. In section 79(1)(a) and (2), omit "or the reservation of a grave space".
45. (1) In section 80(1) —
(a) for the definition of "diocesan advisory committee" substitute —
| **93**"advisory committee" means the Diocesan Advisory Committee; **92**;
(b) in the definition of "minister", for "Mission and Pastoral Measure 2011" substitute "*Mission and Pastoral Measure (Isle of Man) 2012*";
(c) for the definition of "parish" substitute —
| **93**"parish" means an ecclesiastical parish; **92**;
(d) omit the definition of "parish church".
(2) For section 80(3) substitute —
| **93**(3) Nothing in this Part prejudices or affects the provisions of any enactment relating to ancient monuments or town and country planning. **92**.

PART 5 – MISCELLANEOUS

46. Omit sections 81 and 82.
47. (1) In the heading of section 83, for "Rule Committee" substitute "Legislative Committee".
(2) In section 83(1) —
(a) for "Rule Committee" substitute "Legislative Committee of the Sodor and Man Diocesan Synod";
(b) omit paragraph (d);
(c) for paragraph (e) substitute —
| **93**(e) section 9C of the *Churchwardens Measure (Isle of Man) 2013*;

- (f) rule 46D of the Church Representation Rules;
- (g) provision made by Canon to confer a right of appeal against the suspension of a licence to exercise the office of reader or of a licence to serve as a lay worker. **22**.
- (3) In section 83(3) and (5), for "Rule Committee" substitute "Legislative Committee".
- (4) Omit section 83(4).
- (5) After section 83(5) insert —
- 66**(5A) Rules made under this section may provide that rules made under this section as it has effect in England shall have effect in the Isle of Man subject to such modifications as may be prescribed. **22**.
- (6) In section 83(6) —
- (a) omit paragraph (c);
- (b) in paragraph (d), for "sections 84 to 87" substitute "section 87".
- (7) In section 83(8), for "section 25 of the Parochial Registers and Records Measure 1978" substitute "the *Church Records Measure (Isle of Man) 2000*".
- (8) For section 83(9) substitute —
- 66**(9) Rules under this section shall not have effect unless they are approved by the Sodor and Man Diocesan Synod, and shall be laid before Tynwald as soon as may be after they are so approved. **22**.
- (9) Omit section 83(10).
48. Omit sections 84 to 86.
49. (1) In section 87(2), omit paragraph (e).
- (2) For section 87(4) substitute —
- 66**(4) In this section "monument" has the same meaning as in Schedule 1 to the *Church Fees Measure (Isle of Man) 2014*. **22**.
50. (1) Omit section 88(1).
- (2) In section 88(3), for "an Order in Council under the Burial Act 1853 or 1855" substitute "an order under section 5 of the *Burials Act 1986* (an Act of Tynwald)".
- (3) Omit section 88(4), (5) and (7).
51. Omit section 89(7).
52. (1) In section 91(4), for "Order in Council under the Burial Act 1853 or 1855" substitute "order under section 5 of the *Burials Act 1986*".
- (2) For section 91(5) substitute —

53. (1) But an order under the said section 5 may discontinue burials in the land if it appears to the Department of Environment, Food and Agriculture that further burials in the land would be prejudicial to public health. **22**.
- (1) In section 92(1)—
- (a) omit "of an archdeaconry in the diocese" and "in the archdeaconry";
- (b) in paragraph (a), after "corporation" insert ", the churchwardens of a parish jointly with any such corporation".
- (2) In section 92(4), for "section 78 of and Schedule 6 to the Mission and Pastoral Measure 2011" substitute "section 21 of and Schedule 4 to the *Mission and Pastoral Measure (Isle of Man) 2012*".
- (3) In section 92(5), for "Secretary of State" substitute "Department of Environment, Food and Agriculture".
- (4) For section 92(8) and (9) substitute —
- 23**(8) Section 1 of the *Conveyancing Act 1983* (an Act of Tynwald) (which enables the court to discharge or modify restrictions affecting land) does not apply in relation to a condition or requirement imposed by an order under this section.
- (9) Subsection (6) is subject to section 29 (registration of encumbrances) of the *Registration of Deeds Act 1961* (an Act of Tynwald) and to the provisions of the *Land Registration Act 1982* (an Act of Tynwald).
- (9A) For the purposes of section 11(1) of the said Act of 1961 the archdeacon shall be deemed to be a person legally or beneficially interested in the building or land affected; and for the purposes of the said Act of 1982 a condition or requirement shall be treated as falling within Part I of Schedule 6 (registrable burdens) to that Act. **22**.
- (5) Omit section 92(11), (12) and (14).
54. (1) For section 93(4) substitute —
- 24**(4) In this section —
- "the appropriate authority" means —
- (a) in relation to Crown land vested in or managed by a Department or Statutory Board or a government department of the United Kingdom, that Department, Board or department;
- (b) in relation to any other Crown land, the Council of Ministers;

and, if any question arises as to what authority is the appropriate authority in relation to any land or building, that question shall be referred to the Council of Ministers, whose decision shall be final;

"Crown land" means land in which there is an interest belonging to or held in trust for Her Majesty;

"Department" and "Statutory Board" have the meanings given by the *Interpretation Act 2015* (an Act of Tynwald). **22**.

- (2) Omit section 93(5).

PART 6 – GENERAL

55. Omit section 94.

56. (1) In section 95(1) –

(a) at the appropriate places in alphabetical order insert –

23 "archdeacon" means the Archdeacon of Man;";

""churchyard" includes any burial ground, or part of a burial ground, which is consecrated ground, but does not include a cemetery provided under the *Douglas Cemetery Act 1895*;";

""diocesan board of finance" means the Sodor and Man Diocesan Board of Finance;";

""the High Court" means the High Court of Justice of the Isle of Man;";

""prescribed" means prescribed by rules; **24**;

(b) omit the definitions of "chancellor", "consistory court" and "parochial library".

- (2) After section 95(3) insert –

25 (3A) References in this Measure to a Measure (including this Measure) or to a provision of a Measure are to that Measure or provision as it has effect in the Isle of Man.

(3B) References in this Measure to the commencement of any provision of this Measure are to the date on which the provision is extended to the Isle of Man. **26**.

- (3) Omit section 95(4) and (5).

57. Omit sections 99 and 100.

SCHEDULES

58. In Schedule 1 –

(a) omit paragraphs 1, 5, 19, 20(2), 21, 23(b), 24(2)(b) and (c) and (3) and 25 to 30;

- (b) in paragraph 10(3), for "(1A)" substitute "(1B)", and omit "and (b) omit "including that Court"".
59. In Schedule 2 —
- (a) in paragraph 1, for "[name of diocese]" substitute "Sodor and Man";
 - (b) in paragraph 2(1), omit "of each archdeaconry in the diocese", and for "12" substitute "5";
 - (c) in paragraph 2(2), for the words from "(a)" onwards substitute —
 - (a) the standing committee of the diocesan synod, and
 - (b) the chancellor of the diocese.■;
 - (d) in paragraph 2(3) —
 - (i) for "bishop's council of the diocese" (in each place) substitute "standing committee of the diocesan synod",
 - (ii) for "ten" substitute "3";
 - (iii) omit the words from "of whom" to "societies";
 - (e) in paragraph 2(4), for "bishop's council" substitute "standing committee";
 - (f) in paragraph 7, for "diocesan secretary" substitute "archdeacon".
60. In Schedule 3 —
- (a) in Part 1, omit paragraphs 1 to 3, 5, 9, 10 and 14 to 23;
 - (b) in Part 2 —
 - (i) in paragraph 24, after "1964" insert "(as applied by the Ecclesiastical Jurisdiction Rules (Isle of Man) 1995)";
 - (ii) omit paragraphs 27 to 35;
 - (iii) in paragraph 36, after "2015" insert "(as applied by rule 21.1 of the Faculty Jurisdiction Rules (Isle of Man) 2016)";
 - (iv) omit paragraphs 37(5) to (7), 38 to 48, 50 and 51;
 - (c) omit Part 3 (paragraphs 52 to 63).
61. In Schedule 4, omit Part 2.
62. In Schedule 5, omit the repeals of enactments which do not extend to the Isle of Man.

SCHEDULE 2**CONSEQUENTIAL AMENDMENTS***Mission and Pastoral Measure (Isle of Man) 2012 (SM 2 of 2012)*

1. (1) In section 17(4), for "section 6 of the Faculty Jurisdiction Measure 1964" substitute "section 59 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018".
 - (2) In section 19(3)(c), for "section 22 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991" substitute "section 92 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018".
 - (3) In Schedule 3, in paragraph 3(3), for "Part 1 of the Church Act 1979 ceases" substitute "sections 45 to 48 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 cease".

Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 (SM 1 of 2017)

2. In Schedule 1, for paragraph 4 substitute —

4. Omit section 4.

SCHEDULE 3**REPEAL OF ENACTMENTS**

Reference	Title	Extent of repeal
AT 4 of 1979	Church Act 1969.	Schedule 1, except paragraph 6.
AT 10 of 1979	Church Act 1979.	The whole Act.
SM 1 of 1992	Care of Churches and Ecclesiastical Jurisdiction Measure (Isle of Man) 1992.	The Schedule, except paragraph 30(1) and (6).
SM 1 of 1994	Statute Law Revision Measure (Isle of Man) 1994.	In Schedule 1, paragraph 7.
SM 1 of 2000	Church Records Measure (Isle of Man) 2000.	Section 32(2).
SM 1 of 2009	Church (Miscellaneous Provisions) Measure (Isle of Man) 2009.	Section 3. In Schedule 3, paragraphs 2 and 3.
SM 1 of 2015	Church (Miscellaneous Provisions) Measure (Isle of Man) 2015.	Section 3(b), (c), (e), (f) and (g). In Schedule 1, paragraphs 2 to 5.
SM 1 of 2016	Care of Churches and Ecclesiastical Jurisdiction (Amendment) Measure (Isle of Man) 2016.	In the Schedule, paragraphs 1 to 8.

ENDNOTES

Table of Endnote References