



THE PATRONAGE MEASURE (ISLE OF MAN) 1997

*Approved by the Sodor and
Man Diocesan Synod*

3rd December 1996

Approved by Tynwald

19th March 1997

Received Royal Assent

22nd July 1997

Announced to Tynwald

18th November 1997

A MEASURE enacted pursuant to the Church Legislation Procedure Act 1993 to extend the Patronage (Benefices) Measure 1986 to the Isle of Man; to provide for refusal to institute a person presented to a benefice; and for connected purposes.

Extension of the Patronage (Benefices) Measure 1986

1. (1) The Patronage (Benefices) Measure 1986 (a Measure of the General Synod of the Church of England) shall extend to the Island in accordance with subsection (2).

(2) The said Measure, incorporating the exceptions and modifications subject to which it extends to the Island, is set out in Schedule 1.

Power to refuse to institute to benefice

2. (1) The Bishop may refuse to institute or admit a presentee to a benefice on any of the following grounds –

- (a) that at the date of presentation not more than 3 years have elapsed since the presentee was ordained deacon;
- (b) that the presentee is unfit to discharge the duties of the benefice by reason of –
 - (i) physical or mental infirmity or incapacity;
 - (ii) pecuniary embarrassment of a serious character;
 - (iii) grave misconduct or neglect of duty in an ecclesiastical office;
 - (iv) evil life; or

Patronage Measure (Isle of Man) 1997

- (v) having by his conduct caused grave scandal concerning his moral character since his ordination;
- (c) that the presentee has, with reference to the presentation, been knowingly party or privy to any transaction or agreement which is invalid under section 3 of the Patronage (Benefices) Measure 1986 (as it has effect in the Island by virtue of section 1); or
- (d) where the presentee has not previously held a benefice or the office of vicar in a team ministry, that he has had no experience, or less than 3 years' experience, as a full-time curate.

(2) Where the Bishop refuses to institute or admit a presentee on any ground specified in subsection (1), he shall notify the refusal and the grounds for it in writing to the person presenting to the benefice and the presentee, and either of those persons may, within one month after such notification, appeal in writing to the Archbishop of York.

(3) On an appeal under subsection (2) the Archbishop, after making or causing to be made such inquiries as he thinks fit, may either –

- (a) uphold the Bishop's decision, or
- (b) direct him to institute or admit the presentee;

and it shall be the duty of the Bishop to comply with any such direction.

(4) In this section –

"benefice" has the same meaning as in the Pastoral Measure 1983, as it has effect in the Island;

"curate" means an assistant curate, priest in charge or curate in charge licensed to a parish.

(5) References in subsection (1)(d) to a benefice or the office of vicar in a team ministry, and in subsection (4) to a parish, include references respectively to –

- (a) any benefice or any such office, and any parish, in the province of Canterbury or York;
- (b) any benefice or corresponding office, and any parish, in the Church in Wales, the Church of Ireland or the Episcopal Church of Scotland.

(6) This section applies to benefices in the patronage of the Crown.

Patronage Measure (Isle of Man) 1997

Short title etc.

3. (1) This Measure may be cited as the Patronage Measure (Isle of Man) 1997.

(2) The modifications of rules 19, 20 and 21 of the Church Representation Rules specified in Part 1 of Schedule 2 shall have effect in place of those applying thereto immediately before the passing of this Measure.

(3) The modifications of –

(a) sections 18, 32, 69 to 72 and 81(1) of, and

(b) paragraphs 1(6), 3, 4(3), 6 and 13 of Schedule 3 to,

the Pastoral Measure 1983 set out in Part 2 of Schedule 2 shall have effect in place of those applying thereto immediately before the passing of this Measure.

(4) This Measure shall come into operation on such day as the Bishop may by order appoint.

Section 1(2).

SCHEDULE 1

THE PATRONAGE (BENEFICES) MEASURE 1986 AS IT EXTENDS
TO THE ISLAND

PART I

TRANSFER OF RIGHTS OF PATRONAGE

Transfer of rights of patronage

3. (1) No right of patronage of a benefice shall be capable of sale and any transfer thereof for valuable consideration shall be void.

(2) Subject to the provisions of this section, a right of patronage vested in an ecclesiastical corporation shall not be transferred to any body or person unless –

(a) the consent of the bishop or, if the bishop is the proposed transferor, the consent of the archbishop has been obtained; or

(b) the transfer is made by a pastoral scheme or order.

(3) Where a right of patronage of a benefice is proposed to be transferred otherwise than by a pastoral scheme or order, the proposed transferor shall send to the bishop (or, if the bishop is the proposed transferor, to the archbishop) and to the registrar of the diocese a notice stating –

(a) his intention to transfer that right;

(b) the name and address of the proposed transferee; and

(c) particulars of the terms of the proposed transfer.

(4) On receiving a notice under subsection (3) above, the registrar shall send to the secretary of the parochial church council of the parish concerned a notice informing him of the proposed transfer and stating that before the expiration of the period of one month beginning with the date on which the notice is sent to him representations with respect to the proposed transfer may be made to the registrar by the parochial church council; and the registrar shall notify the bishop and the proposed transferor, or, if the bishop is the proposed transferor, the bishop and the archbishop, of any representations made to him within that period.

(5) After the expiration of the period of one month mentioned in subsection (4) above, the bishop or, if the bishop is the proposed transferor, the archbishop shall consider any representations made under that subsection and, whether or not any such representations have been made, the bishop or archbishop may request the proposed transferor (either personally or through some person appointed by the proposed transferor) to confer with him (or with some person appointed by the bishop or, as the case may be, the archbishop) as to the proposed transfer; and the bishop or, as the case may be, the archbishop shall not give any consent required under this section until after any such representations have been considered and any such request has been complied with.

(6) Any transfer of a right of patronage otherwise than by a pastoral scheme or order shall be in the prescribed form.

(8) No transfer of a right of patronage of a benefice shall take effect during the period of a vacancy in that benefice.

(9) In this section "transfer" means a transfer *inter vivos* including a transfer by way of exchange; but it does not include a transfer by operation of law, a transfer upon

Patronage Measure (Isle of Man) 1997

the appointment of a new trustee or a transfer by the personal representatives of a deceased person.

Rights of patronage exercisable otherwise than by patron

5. (1) Where an office is a patron of a benefice, the person who is for the time being the holder of that office shall, subject to the provisions of Part II of this Measure, be entitled to discharge all the functions of a patron of that benefice.

(2) Where a patron of a benefice dies then, until the right of patronage is transferred to the person entitled thereto, the personal representatives of the deceased patron shall, subject to the provisions of Part II of this Measure, be entitled to discharge all the functions of a patron of that benefice.

(3) The patron of a benefice may by an instrument creating a power of attorney confer on the donee of the power authority to discharge on his behalf all the functions of a patron of that benefice, and where such a power is created the donee shall, subject to the provisions of Part II of this Measure, be entitled to discharge those functions until the power is revoked.

Registration of advowsons

6. For the avoidance of doubt, it is hereby declared that the title to an advowson may not be registered pursuant to the Land Registration Act 1982 (an Act of Tynwald).

PART II

EXERCISE OF RIGHTS OF PRESENTATION

General provisions as to filling of vacancies

Notification of vacancies

7. (1) Subject to section 70 of the Pastoral Measure 1983, where a benefice becomes vacant by reason of the death of the incumbent, the bishop shall, as soon as practicable after he becomes aware of the vacancy, give notice of that fact to the registrar of the diocese.

(2) Subject to section 70 of the Pastoral Measure 1983, where the bishop is aware that a benefice is shortly to become vacant by reason of resignation or cession, the bishop shall give such notice of that fact as he considers reasonable in all the circumstances to the registrar of the diocese.

(4) As soon as practicable after receiving a notice under subsection (1) or (2) above the registrar shall send notice of the vacancy to the patron of the benefice and to the secretary of the parochial church council of the parish belonging to the benefice; and any such notice shall include such information as may be prescribed.

Provisions as to declarations of membership

8. (1) Where the patron of a benefice is an individual and is not a clerk in Holy Orders, he shall on receiving notice of a vacancy in the benefice under section 7(4) of this Measure –

- (a) if able to do so, make a written declaration (in this Measure referred to as "the declaration of membership") declaring that he is an actual communicant member of the Church of England or of a Church in communion with that Church; or

Patronage Measure (Isle of Man) 1997

- (b) if unable to make the declaration himself, appoint some other person, being an individual who is able and willing to make it or is a clerk in Holy Orders or a patronage board constituted by a pastoral scheme, to act as his representative to discharge in his place the functions of a patron.

(2) Where the patron of a benefice is a body of persons corporate or unincorporate then, on receiving notice of a vacancy in the benefice under section 7(4) of this Measure, that body shall appoint an individual who is able and willing to make the declaration of membership or is a clerk in Holy Orders to act as its representative to discharge in its place the functions of a patron.

(3) Notwithstanding anything in subsection (1) above, where the patron of a benefice who is an individual and is not the bishop of a diocese is of the opinion, on receiving notice of a vacancy in the benefice under section 7(4) of this Measure, that he will be unable for any reason to discharge his functions as a patron of that benefice he may, notwithstanding that he is able to make the declaration of membership, appoint such a representative as is mentioned in subsection (1)(b) above to discharge those functions in his place.

(4) Where a benefice the right of presentation to which belongs to an office (other than an ecclesiastical office) becomes a vacant, the person who holds that office on the date on which the benefice becomes vacant shall be entitled to present on that vacancy and shall as soon as practicable after that date –

- (a) if able to do so, make the declaration of membership, or
- (b) if unable to make the declaration himself, appoint some other person, being a person who may be appointed as a representative under subsection (1)(b) above, to act as his representative to discharge in his place the functions of a patron.

(5) Where the right of presentation to a benefice is exercisable by the donee of a power of attorney, the donee shall as soon as practicable after receiving notice of the vacancy in the benefice (or, if the power is created during the vacancy, as soon as practicable after it is created) –

- (a) if able to do so, make the declaration of membership, or
- (b) if unable to make the declaration himself, appoint some other person, being a person who may be appointed as a representative under subsection (1)(b) above, to act as his representative to discharge in his place the functions of a patron.

(6) Where under the preceding provisions of this section a patronage board constituted by a pastoral scheme is appointed to discharge the functions of a patron, that body shall as soon as practicable after being so appointed appoint as its representative an individual who is able and willing to make the declaration of membership or is a clerk in Holy Orders.

Information to be sent to registrar

9. (1) Before the expiration of the period of two months beginning with the date on which a benefice becomes vacant, a patron who is an individual shall send to the registrar of the diocese –

- (a) the declaration of membership made by him, or
- (b) the name and address of his representative and the declaration of membership made by that representative.

Patronage Measure (Isle of Man) 1997

(2) Before the expiration of the said period of two months, a patron which is a body of persons corporate or unincorporate shall send to the registrar of the diocese the name and address of the individual who is to act as its representative and the declaration of membership made by that representative.

(3) Where the functions of a patron are to be discharged by the holder of an office, subsection (1) above shall apply to the person who holds that office on the date on which the benefice becomes vacant as it applied to the patron.

(4) Where the functions of a patron are to be discharged by the donee of a power of attorney, subsection (1) above shall apply to the donee as it applies to the patron except that, if the power is created during the vacancy concerned, there shall be substituted for the period of two months mentioned in that subsection the period of two months beginning with the date on which the power is created, and the information required to be sent under that subsection shall include information as to that date.

(5) Where the patron or his representative is a clerk in Holy Orders, the patron shall, before the expiration of the period during which the declaration of membership is required to be sent to the registrar under the preceding provisions of this section, notify the registrar of that fact, and a declaration of membership made by that clerk shall not be required to be sent to the registrar under this section.

(6) As soon as practicable after receiving information under this section as to the appointment of a representative, the registrar shall send to the secretary of the parochial church council the name and address of that representative.

Disqualification for presentation

10. Where the patron of a benefice or the representative of that patron, is a clerk in Holy Orders or is the spouse of such a clerk, that clerk shall be disqualified for presentation to that benefice.

Requirements as to meetings of parochial church council

11. (1) Before the expiration of the period of four weeks beginning with the date on which the notice under section 7(4) of this Measure is sent to the secretary of the parochial church council, one or more meetings of that council shall be held for the purposes of –

- (a) preparing a statement describing the conditions, needs and traditions of the parish;
- (b) appointing two lay members of the council to act as representatives of the council in connection with the selection of an incumbent;
- (c) deciding whether to request the patron to consider advertising the vacancy;
- (d) deciding whether to request a meeting under section 12 of this Measure;
- (e) deciding whether to request a statement in writing from the bishop describing in relation to the benefice the needs of the diocese and the wider interests of the Church; and
- (f) deciding whether to pass a resolution under section 3(1) or (2) of the Priests (Ordination of Women) Measure 1993.

(2) A meeting of the parochial church council for which subsection (1) above provides shall be convened by the secretary thereof, and no member of that council who is –

Patronage Measure (Isle of Man) 1997

- (a) the outgoing incumbent or the spouse of the outgoing incumbent, or
- (b) the patron, or
- (c) the representative of the patron,

shall attend that meeting.

(3) None of the following members of the parochial church council, that is to say –

- (a) any person mentioned in subsection (2) above, and
- (b) any deaconess or lay worker licensed to the parish,

shall be qualified for appointment under subsection (1)(b) above.

(4) If before the vacancy in the benefice is filled any person appointed under subsection (1)(b) above dies or becomes unable for any reason to act as the representative of, or ceases to be a member of, the council by which he was appointed, then, except where he ceases to be such a member and the council decides that he shall continue to act as its representative, his appointment shall be deemed to have been revoked and the council shall appoint another lay member of the council (not being a member disqualified under subsection (3) above) to act in his place for the remainder of the proceedings under this Part of this Measure.

(5) If a parochial church council holds a meeting under subsection (1) above but does not appoint any representatives at that meeting, then, subject to subsection (6) below, two churchwardens who are members of that council (or, if there are more than two churchwardens who are members of the council, two churchwardens chosen by all the churchwardens who are members) shall act as representatives of the council in connection with the selection of an incumbent.

(6) A churchwarden who is the patron of a benefice shall not be qualified under subsection (5) above to act as a representative of the parochial church council or to choose any other churchwarden so to act, and in any case where there is only one churchwarden qualified to act as such a representative that churchwarden may act as the sole representative of that council in connection with the selection of the incumbent.

(7) Any representative of the parochial church council appointed under subsection (1) or (4) above and any churchwarden acting as such a representative by virtue of subsection (5) or (6) above is in this Part of this Measure referred to as a "parish representative", and where a churchwarden is entitled to act as the sole parish representative any reference in this Part to the parish representatives shall be construed as a reference to that churchwarden.

(8) A copy of the statement prepared under subsection (1)(a) above together with the names and addresses of the parish representatives shall, as soon as practicable after the holding of the meeting under that subsection, be sent by the secretary of the parochial church council to the patron and, unless the bishop is the patron, to the bishop.

Joint meeting of parochial church council with bishop and patron

12. (1) Where a request for a meeting under this section is made –
- (a) by a notice sent by the patron or the bishop to the secretary of the parochial church council, or
 - (b) by a resolution of the parochial church council, passed at a meeting held under section 11 of this Measure,

Patronage Measure (Isle of Man) 1997

a joint meeting of the parochial church council with the patron and (if the bishop is not the patron) the bishop shall be held for the purpose of enabling those present at the meeting to exchange views on the statement prepared under section 11(1)(a) of this Measure (needs of the parish) and the statement presented under subsection (2) below (needs of the diocese).

(2) At any meeting held under this section the bishop shall present either orally or, if a request for a statement in writing has been made by the patron or the parochial church council, in writing a statement describing in relation to the benefice the needs of the diocese and the wider interests of the Church.

(3) Any notice given under subsection (1)(a) above shall be of no effect unless it is sent to the secretary of the parochial church council not later than ten days after a copy of the statement prepared under subsection (1)(a) of section 11 of this Measure is received by the persons mentioned in subsection (8) of that section.

(4) The outgoing incumbent and the spouse of the outgoing incumbent shall not be entitled to attend a meeting held under this section.

(5) A meeting requested under this section shall be held before the expiration of the period of six weeks beginning with the date on which the request for the meeting was first made (whether by the sending of a notice as mentioned in subsection (1)(a) above or by the passing of a resolution as mentioned in subsection (1)(b) above), and at least fourteen days' notice (unless a shorter period is agreed by all the persons concerned) of the time and place at which the meeting is to be held shall be given by the secretary of the parochial church council to the patron, the bishop (if he is not the patron) and the members of the parochial church council.

(6) If either the patron or the bishop is unable to attend a meeting held under this section, he shall appoint some other person to attend on his behalf.

(7) The chairman of any meeting held under this section shall be such person as the persons who are entitled to attend and are present at the meeting may determine.

(8) No meeting requested under this section shall be treated for the purposes of this Measure as having been held unless there were present at the meeting –

- (a) the bishop or the person appointed by the bishop to attend on his behalf, and
- (b) the patron or the person appointed by the patron to attend on his behalf, and
- (c) at least one third of the members of the parochial church council who were entitled to attend.

(9) The secretary of the parochial church council shall invite both the rural dean of the deanery in which the parish is (unless he is the outgoing incumbent) and the lay chairman of the deanery synod of that deanery to attend a meeting held under this section.

Provisions with respect to the selection of incumbent

13. (1) The patron of a vacant benefice shall not make to any priest an offer to present him to a benefice until –

- (a) if a request for a meeting under section 12 of this Measure has been made, either –
 - (i) that meeting has been held, or

Patronage Measure (Isle of Man) 1997

- (ii) all the parties concerned have agreed that no such meeting should be held, or
 - (iii) the period of six weeks mentioned in section 12(5) has expired; and
- (b) (whether or not such a request has been made) the making of the offer to the priest in question has been approved –
- (i) by the parish representatives, and
 - (ii) if the patron is a person other than the bishop of the diocese in which the benefice is, by that bishop.

(2) If, before the expiration of the period of four weeks beginning with the date on which the patron sent to the bishop a request for him to approve under paragraph (b) of subsection (1) above the making of the offer to the priest named in the request, no notice is received from the bishop of his refusal to approve the making of the offer, the bishop shall be deemed to have given his approval under that paragraph.

(3) If, before the expiration of the period of two weeks beginning with the date on which the patron sent to the parish representatives a request for them to approve under paragraph (b) of subsection (1) above the making of the offer to the priest named in the request, no notice is received from any representative of his refusal to approve the making of the offer, the representatives shall be deemed to have given their approval under that paragraph.

(4) If –

- (a) the bishop refuses to approve under paragraph (b) of subsection (1) above the making of the offer to the priest named in the request, or
- (b) any parish representative refuses to approve under that paragraph the making of that offer,

the bishop or the representative, as the case may be, shall notify the patron in writing of the grounds on which the refusal is made.

(5) Where approval of an offer is refused under subsection (4) above, the patron may request the archbishop to review the matter and if, after review, the archbishop authorises the patron to make the offer in question, the patron may make that offer accordingly

Provided that this subsection shall not apply in respect of –

- (a) a parish in a diocese to which a declaration under section 2(1)(b) of the Priests (Ordination of Women) Measure 1993 applies; or
- (b) a benefice comprising a parish to which a resolution under section 3(1) of that Measure applies,

where the refusal is made solely on grounds of sex.

(6) Where a priest accepts an offer made in accordance with the provisions of this section to present him to a benefice and the patron is a person other than the bishop, the patron shall send the bishop a notice presenting the priest to him for admission to the benefice.

Failure of patron to comply with section 9

14. (1) Where any declaration of membership or other information required to be sent to the registrar under section 9 of this Measure is not sent to him before the

Patronage Measure (Isle of Man) 1997

expiration of the period during which it is required to be so sent and the patron is a person other than the bishop then, after the expiration of that period –

- (a) no meeting shall be held under section 12 of this Measure by reason of any request made by the patron and subsections (2), (5), (6) and (8) of that section shall not apply in relation to that patron; and
- (b) no offer shall be made to any priest under section 13 of this Measure;

but the bishop may, subject to subsection (2) below, make to such priest as he thinks fit an offer to collate him to the benefice.

(2) The bishop shall not make an offer under subsection (1) above unless the making of the offer has been approved by the parish representatives, and subsections (3), (4)(b) and (5) of section 13 of this Measure shall apply in relation to a request sent by the bishop to those representatives by virtue of this subsection as if for any reference to the patron there were substituted a reference to the bishop.

(3) Where under subsection (1) above the bishop makes to a priest an offer to collate him to a benefice in respect of which more than one person is patron, the patron whose turn it was to present to the benefice shall be treated for the purposes of this Measure as having exercised that turn.

Failure of council to comply with section 11 or 12

15. If a copy of the statement prepared under section 11(1)(a) of this Measure is not sent under subsection (8) of that section to the persons mentioned in that subsection or if notice is not given under section 12(5) of this Measure of any joint meeting requested under subsection (1)(a) of the said section 12 then –

- (a) if the bishop is the patron, he may, without making any request for the approval of the parish representatives, make to such priest as he thinks fit an offer to collate him to the benefice; and
- (b) if the bishop is not the patron, that patron shall be entitled to proceed under section 13 of this Measure as if paragraphs (a) and (b)(i) of subsection (1), subsection (3) and paragraph (b) of subsection (4) thereof had not been enacted.

Presentation to benefices remaining vacant for 18 months

16. (1) If at the expiration of the period of eighteen months beginning with the date on which a benefice becomes vacant –

- (a) no notice of presentation under section 13(6) of this Measure has been received by the bishop, or
- (b) where the bishop is the patron, he has not received an acceptance of any offer made by him to collate a priest to the benefice,

the right of presentation to that benefice shall be exercisable by the archbishop in accordance with the provision of this section; and a notice to that effect shall be sent by the bishop to the archbishop.

(2) In calculating the period of eighteen months mentioned in subsection (1) above, no account shall be taken of any of the following periods, that is to say –

- (a) a period during which the decision of the bishop to refuse to approve the making to a priest of an offer to present him to a benefice is under review by an archbishop,

Patronage Measure (Isle of Man) 1997

(b) a suspension period within the meaning of the Pastoral Measure 1983, and

(c) a period during which the exercise of rights of presentation is restricted under section 24 or 69 of that Measure.

(3) As soon as practicable after a right of presentation becomes exercisable by an archbishop under this section, the archbishop shall send to the secretary of the parochial church council of the parish concerned a notice requiring him within three weeks after receiving the notice to send to the archbishop copies of the statement describing the conditions, needs and traditions of the parish prepared in accordance with section 11 of this Measure together with copies of any additional observations which the council wishes the archbishop to consider.

(4) The bishop may, and if the archbishop so requests shall, send to the archbishop a statement describing in relation to the benefice the needs of the diocese and the wider interests of the Church.

(5) Before the archbishop decides on the priest to whom an offer to present him to the benefice is to be made he shall consult the bishop, the parish representatives and such other persons as he thinks fit, including other persons who in his opinion can also represent the views of the parishioners and, if during the period of eighteen months mentioned in subsection (1) above the approval of the bishop or the parish representatives to the making of an offer to a priest by the patron of the vacant benefice has been refused under section 13 of this Measure, the archbishop shall not make any offer to that priest under this section unless the consent of the bishop or, as the case may be, the parish representatives has been obtained.

(6) Where a priest accepts an offer to present him to a benefice made in accordance with the provisions of this section, the archbishop shall send to the bishop a notice presenting the priest to him for admission to the benefice.

Provisions to have effect where bishop refuses to institute presentee

17. (1) Nothing in the preceding provisions of this Measure shall be taken as affecting the power of a bishop under any rule of law to refuse to institute or admit a presentee to the benefice.

(2) Where in exercise of any such power a bishop refuses to institute or admit a presentee to a benefice, and either no legal proceedings in respect of the refusal are brought or the refusal of the bishop is upheld in such proceedings, the presentation to the benefice affected shall be made by the patron whose turn it was to present when the vacancy first occurred; and for the purposes of sections 7, 9, 11 and 12 of this Measure a new vacancy shall not be treated as having occurred by virtue of this section.

Notice of intention of bishop to institute or collate person to benefice

19. (1) Subject to subsection (3) below, a bishop shall not on a vacancy in a benefice institute or collate any person to the benefice unless after the occurrence of the vacancy a notice in the prescribed form, signed by or on behalf of the bishop, is served on the secretary of the parochial church council of the parish concerned informing him of the bishop's intention to institute or collate that person to the benefice specified in the notice and a period of three weeks has expired since the date of the service of the notice.

(2) As soon as practicable after receiving a notice under subsection (1) above the secretary shall cause the notice or a copy thereof to be fixed on or near the principal door of every church in the parish and every building licensed for public worship in the parish and to remain affixed thereon for two weeks.

Patronage Measure (Isle of Man) 1997

(3) Subsection (1) above shall not apply in relation to a person designated by or selected under a pastoral scheme or order as the incumbent of any benefice.

Bishop to act in place of incumbent patron in certain cases

20. Where a benefice ("the ancillary benefice") becomes vacant and it is the turn of the incumbent of another benefice ("the principal benefice"), being the patron of the ancillary benefice, to present to that benefice, then if, when the ancillary benefice becomes vacant or at any time during the vacancy thereof and before a notice of presentation under section 13(6) of this Measure is sent to the bishop by the incumbent of the principal benefice –

- (a) the principal benefice is or becomes vacant, or
- (b) the principal benefice is under sequestration, or
- (c) the incumbent of the principal benefice is suspended or inhibited from discharging all or any of the duties attached to his preferment,

the bishop shall discharge in his place the functions of a patron.

Exercise of patronage by personal representatives

21. Where a benefice becomes vacant and the patron dies during the vacancy, then, notwithstanding anything in section 3(8) of this Measure the right of presentation to that benefice upon that vacancy shall be exercisable by that patron's personal representatives; but, before they exercise that right, they shall comply with the requirements of sections 8 and 9 of this Measure as if they were the patron.

Exchange of benefices

22. (1) Two incumbents may by instrument in writing agree to exchange their benefices if the agreement of the following persons has been obtained –

- (a) the bishop of the diocese in which each benefice is,
- (b) any patron whose turn it is to present to either of the benefices, and
- (c) the parochial church council of the parish of each benefice, the agreement having in each case been given by resolution of the council.

(2) Where a patron whose turn it is to present to a benefice has given his agreement under subsection (1) above to an exchange by the incumbent of that benefice, he shall be treated for the purposes of this Measure as having exercised that turn.

Special provisions applicable to certain benefices

23. (1) The provisions of this Part of this Measure shall in their application to –

- (a) a benefice which comprises two or more parishes,
- (b) a benefice of which the parochial church council of the parish belonging to the benefice is the patron, and
- (c) benefices held in plurality,

have effect subject to the provisions of Schedule 2 to this Measure.

(2) For the purposes of Schedule 2 to this Measure, where a parish includes a district or part of a district assigned to a chapel under the Church Representation Rules –

Patronage Measure (Isle of Man) 1997

- (a) that district, and
- (b) the parish (excluding that district),

shall be treated as if they were separate parishes.

Interpretation of Part II

24. (1) Subject to subsections (2) and (3) below, in this Part of this Measure, except in sections 7(4) and 10, any reference to a patron, in relation to any vacancy in a benefice in respect of which there is more than one patron, shall be construed as a reference to the patron whose turn it is to present on that vacancy.

(2) In a case where the functions of the patron of a benefice in relation to a vacancy in the benefice are to be discharged by the holder of an office or the donee of a power of attorney, any reference in this Part of this Measure (except in sections 8, 9(1) to (4) and 21) to the patron shall (subject to subsection (3) below) be construed as a reference to that office-holder or donee as the case may be.

(3) In sections 11 and 12 of this Measure any reference to the patron of a benefice (except the reference in section 11(2)(b)) shall in a case where the functions of the patron in relation to a vacancy in the benefice are to be discharged by a representative be construed as a reference to that representative, and in section 13 of this Measure any reference to the patron of a benefice shall, in a case where the patron, being an individual, has appointed a body mentioned in section 8(7) of this Measure or another individual to discharge those functions, be construed as a reference to that body or that other individual, as the case may be.

(4) In this Part of this Measure, except in section 8, "representative", in relation to a patron, means –

- (a) in the case of a patron who is an individual, the individual appointed under section 8(1)(b), (3) or (6);
- (b) in the case of a patron which is a body of persons, the individual appointed under section 8(2);
- (c) in the case of a patron which is an office, the individual appointed under section 8(4);
- (d) in a case where the functions of a patron are to be discharged by the donee of a power of attorney, the individual appointed under section 8(5).

(5) In this Part of this Measure "parish representative" has the meaning assigned to it by section 11(7) of this Measure.

PART III

MISCELLANEOUS PROVISIONS AS TO PATRONAGE

Benefices affected by pastoral reorganisation

Provisions as to patronage affected by pastoral schemes

29. (3) Subject to any provision for the designation or selection of the first incumbent of a new benefice created by a pastoral scheme, sections 7 to 16 of this Measure shall apply to the making of the first presentation to the benefice as if the coming into operation of the scheme were the occurrence of a vacancy in the benefice.

Patronage Measure (Isle of Man) 1997

Abrogation of rules as to lapse

31. (1) Without prejudice to the provisions of section 16 of this Measure, any rule of law whereby the right of patronage of a benefice lapses to a bishop or archbishop or to Her Majesty in right of Her Crown shall cease to have effect.

(2) Nothing in this section shall affect any right of presentation which on a vacancy in a benefice is exercisable by Her Majesty –

- (a) by reason of the appointment to a diocesan bishopric of the incumbent of the benefice concerned, or
- (b) by reason of a vacancy in the see of a diocesan bishop who is a patron of the benefice concerned.

Transfer of advowson held on trust for sale or comprised in settled land

33. (1) The tenant for life of settled land may, with the consent of the trustees of the settlement or with the approval of the Court, convey an advowson comprised in the settled land gratuitously to any person who has agreed to accept it and –

- (a) being an individual –
 - (i) is an ecclesiastical corporation sole, or
 - (ii) is an actual communicant member of the Church of England, or
- (b) being a body of persons, corporate or unincorporate, has the furtherance of the work of the Church of England as one of its objects.

(2) Subsection (1) above shall be construed as one with the Settled Land Act 1893 (an Act of Tynwald), and that Act shall apply as if the power conferred by subsection (3) had been conferred by that Act.

(3) For the purposes of this section and of section 53 of the said Act of 1893 as applied by subsection (2), an advowson held by any trustee on a trust which would be a trust for sale if the advowson were capable of sale shall be deemed to subject to a trust for sale.

(4) Nothing in any trust deed shall prevent the transfer *inter vivos* by trustees of an advowson which is the subject of a trust.

Abolition of certain rights etc. of patrons

34. (1) The following amendments of the Ecclesiastical Residences and Dilapidations Act 1879 (an Act of Tynwald) shall have effect –

- (a) in section 10 (consent to erection or alteration of parsonage), for "Bishop and patron, and their" substitute "Bishop, and his", and in proviso (2), omit "patron or";
- (b) in section 18 (removal of unnecessary buildings), section 34 (new incumbent to repair) and section 38 (execution of other works), omit "and patron" (in each place);
- (c) in section 40 (postponement of works), omit "with the consent of the patron,".

(2) In paragraph 3(1)(c) of Schedule 2 to the Church Act 1992 (an Act of Tynwald), the words "and the patron of the benefice" are omitted.

Patronage Measure (Isle of Man) 1997

PART IV

GENERAL AND SUPPLEMENTARY PROVISIONS

Benefices in the patronage of the Crown

Provisions with respect to benefices in the patronage of the Crown

35. (1) Without prejudice to the application of section 31 of this Measure to the Crown and except as provided by this section, nothing in this Measure shall apply in relation to any benefice the patronage or any share in the patronage of which is vested in or exercisable by Her Majesty, (in this Measure referred to as a "Crown benefice").

(3) Where in the case of a Crown benefice a share only in the patronage is vested in Her Majesty (in this section referred to as a "shared benefice") sections 5 and 21 of this Measure shall apply in relation to a patron of the benefice other than Her Majesty.

(5) Where a right of patronage of a benefice is proposed to be transferred to Her Majesty sections 3(2) to (7) of this Measure shall not apply but the transferor shall send a notice to the registrar to inform him of the transfer.

(6) Section 3(1) of this Measure shall apply to the transfer of a right of patronage of a Crown benefice.

(7) Section 7 of this Measure shall apply in relation to a Crown benefice, and where the registrar of a diocese receives a notice under that section in respect of a Crown benefice then –

(a) if the patronage is vested wholly in Her Majesty or, in the case of a shared benefice, if the right of presentation upon the vacancy in question is exercisable by Her Majesty, any parochial church council to which notice is given under section 7(4) of this Measure may send to Her Majesty a statement describing the conditions, needs and traditions of the parish (including the terms of any resolution under section 3(1) of the Priests (Ordination of Women) Measure 1993 affecting the benefice in question), and a copy of any such statement shall be sent to the bishop;

(b) if the benefice is a shared benefice and the right of presentation upon the vacancy in question is exercisable by a person other than Her Majesty, sections 8 to 21 of this Measure shall apply in relation to the benefice.

(8) Section 22 of this Measure shall apply in relation to a Crown benefice and where the consent of Her Majesty is required by that section that consent may be given in accordance with the provisions of paragraphs (a) to (d) of section 81(2) of the Pastoral Measure 1983 and those provisions shall have effect accordingly with the necessary modifications.

Provisions as to notices and other documents

37. (1) All notices, agreements, approvals, consents and requests required or authorised by this Measure to be served, sent, given or made shall be in writing, and all such notices shall be in the prescribed form.

(2) Any notice or other document required or authorised by this Measure to be served on or sent or given to any person may be served, sent or given by delivering it to him, or by leaving it at his proper address, or by post.

(3) Any notice or other document required or authorised to be served, sent or given to a corporation or to an unincorporated body having a secretary or clerk or to a

Patronage Measure (Isle of Man) 1997

firm, shall be duly served, sent or given if it is served on or sent or given to, as the case may be, the secretary or clerk of the corporation or body or a partner of the firm.

(4) Subject to subsection (5) below, for the purposes of this section and of section 7 of the Interpretation Act 1978 in its application to this section, the proper address of the person on or to whom any such notice or other document is required or authorised to be served, sent or given shall be his last known address, except that in the case of the secretary or clerk of a corporation, it shall be that of the registered or principal office of the corporation, and in the case of the secretary or clerk of an unincorporated body or a partner of a firm, it shall be that of the principal office of the body or firm.

(5) If the person on or to whom any such notice or other document is to be served, sent or given has specified an address within the Isle of Man or the United Kingdom serving, sending or giving of the notice or other document, his proper address for the said purposes shall be that address.

Procedure

38. (2) The Rule Committee established by section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 shall have power to make rules with regard to any matter of procedure arising under this Measure and in particular with regard to any matter to be prescribed thereunder.

(4) Any rules made under this section shall be laid before the Sodor and Man Diocesan Synod and shall not come into force until approved by the Diocesan Synod.

Interpretation

39. (1) In this Measure, unless the context otherwise requires –

"actual communicant member of the Church of England" means a member of the Church of England who is confirmed or ready and desirous of being confirmed and has received Communion according to the use of the Church of England or of a Church in communion with the Church of England at least three times during the twelve months preceding the date on which he makes the declaration of membership;

"actual communicant member of a Church in communion with the Church of England" means a communicant member of a Church in communion with the Church of England who has received Communion according to the use of the Church of England or of a Church in communion with the Church of England at least three times during the twelve months preceding the date on which he makes the declaration of membership;

"archbishop" means the archbishop of the province in which the benefice is or, where the benefice is in the diocese of the archbishop of that province or the archbishopric of that province is vacant or the archbishop is the patron of that benefice, the archbishop of the other province;

"benefice" means the office of rector or vicar of a parish or parishes with cure of souls, but not including the office of vicar in a team ministry or any office of canon in the cathedral church of St German;

"the bishop" means the bishop of the diocese concerned;

"clerk in Holy Orders" means a priest or deacon of the Church of England and "priest" includes a bishop;

"the declaration of membership" has the meaning assigned to it by section 8(1);

Patronage Measure (Isle of Man) 1997

"parish" means a parish constituted for ecclesiastical purposes;

"pastoral order" and "pastoral scheme" have the same meanings respectively as in the Pastoral Measure 1983;

"patron", in relation to any benefice, means the person or persons entitled, otherwise than by virtue of section 16, to present to that benefice upon a vacancy, including –

- (a) in any case where the right to present is vested in different persons jointly, every person whose concurrence would be required for the exercise of the joint right, and
- (b) in any case where the patronage is vested in different persons by way of alternate or successive right of presentation, every person who would be entitled to present on the next or any subsequent turn;

(2) Where a pastoral scheme or pastoral order provides for the holding of benefices in plurality any reference in this Measure to a benefice shall be construed as including a reference to benefices held in plurality.

(3) If any question arises whether a Church is a Church in communion with the Church of England, it shall be conclusively determined for the purposes of this Measure by the Archbishops of Canterbury and York.

(4) References in this Measure to any Measure extending to the Island (including this Measure), or to any provision of such a Measure, are to that Measure or provision as it has effect in the Isle of Man.

Repeals

41. (2) The enactments specified in Schedule 5 to this Measure (which include enactments which were obsolete, spent or unnecessary before the passing of this Measure) are hereby repealed to the extent specified in column 3 of that Schedule.

Short title

42. (1) This Measure may be cited as the Patronage (Benefices) Measure 1986.

Section 23

SCHEDULE 2

MODIFICATION OF PART II IN ITS APPLICATION TO CERTAIN BENEFICES

Benefice comprising two or more parishes

1. Where a benefice comprises two or more parishes then, except in a case in which paragraph 19 or 20 below applies, the provisions of Part II of this Measure shall have effect subject to the modifications for which paragraphs 2 to 18 below provide.

2. In section 7(4), for the words "the parish" there shall be substituted the words "each of the parishes".

3. In section 9(6) for the words "secretary of the parochial church council" there shall be substituted the words "secretaries of the parochial church councils".

4. For section 11(1) there shall be substituted: –

"(1) Before the expiration of the period of four weeks beginning with the date on which the notice under section 7(4) of this Measure is sent to the

Patronage Measure (Isle of Man) 1997

secretaries of the parochial church councils concerned one or more joint meetings of those councils shall be held for the purposes of –

- (a) discharging the duties imposed on them by subsection (1A) below;
- (b) appointing such number of persons, but not less than four, as will enable each of those councils to have at least one representative, but not more than two representatives, to act as representatives of those councils in connection with the selection of an incumbent;
- (c) deciding whether to request the patron to consider advertising the vacancy;
- (d) deciding whether to request a meeting under section 12 of this Measure;
- (e) deciding whether to request a statement in writing from the bishop describing in relation to the benefice the needs of the diocese and the wider interests of the church;

and each person appointed under paragraph (b) shall be a member of one of the parochial church councils concerned.

(1A) At the meeting, or the first meeting, convened under this section, the parochial church councils shall decide whether they will join in preparing a statement describing the conditions, needs and traditions of the parishes belonging to the benefice or whether the parochial church council of each parish will prepare such a statement in relation to that parish, and that decision having been made, the parochial church councils of those parishes or the parochial church council of each parish, as the circumstances require, shall prepare such a statement."

5. In section 11(2), for the words from the beginning to "council", in the second place where it occurs; there shall be substituted the words "A joint meeting of the parochial church councils for which subsection (1) above provides shall be convened by the secretaries of those councils, and no member of any of those councils".

6. In section 11(3), for the words "the parochial church council" there shall be substituted the words "any of the parochial church councils" and for the words "the parish" there shall be substituted the words "any of the parishes".

7. In section 11(4), for the words from "the council by which he was appointed" to the end there shall be substituted the words "any of the councils by which he was appointed then, except where he ceases to be such a member and those councils decide that he shall continue to act as their representative, his appointment shall be deemed to have been revoked and those councils shall appoint another lay member of any of those councils in his place".

8. For section 11(5) there shall be substituted –

"(5) If the parochial church councils concerned hold a joint meeting under subsection (1) above but do not appoint representatives under paragraph (b) of that subsection, all the churchwardens who are members of any of the councils concerned shall appoint not more than five of those churchwardens to act as representatives of those councils in connection with the selection of an incumbent."

9. In section 11(8) for "1(a)" there shall be substituted "(1A)", and for the words "secretary of the parochial church council" there shall be substituted the words "secretaries of the parochial church councils".

Patronage Measure (Isle of Man) 1997

10. For section 12(1) there shall be substituted –
- "(1) Where a request for a meeting under the section is made –
 - (a) by a notice sent by the patron or the bishop to the secretaries of the parochial church councils concerned or
 - (b) by a resolution of those councils passed at a joint meeting held under section 11 of this Measure,
- a joint meeting of those councils with the patron and (if the bishop is not the patron) the bishop shall be held for the purpose of enabling those present at the meeting to exchange views on the statement or statements prepared under section 11(1A) of this Measure (needs of the parish) and the statement presented under subsection (2) below (needs of the diocese)."
11. In section 12(2) for the word "council" there shall be substituted the word "councils".
12. In section 12(3) for the words "the parochial church council" there shall be substituted the words "each of the parochial church councils concerned" and for "(1)(a)" there shall be substituted "(1A)".
13. In section 12(5) for the words "secretary of the parochial church council" there shall be substituted the words "secretaries of the parochial church councils" and for the words "parochial church council" in the second place where those words occur there shall be substituted the words "parochial church councils concerned".
14. In section 12(8)(c) for the word "council" there shall be substituted the words "councils concerned".
15. In section 12(9) for the words "The secretary of the parochial church council shall invite both the rural dean of the deanery in which the parish is" there shall be substituted the words "The secretaries of the parochial church councils concerned shall invite both the rural dean of the deanery which comprises the parishes concerned."
16. In section 16(3) for the words "of the parish", in the first place where those words occur, there shall be substituted the words "of each of the parishes belonging to the benefice".
17. In section 19(1) for the words "of the parish" there shall be substituted the words "of each of the parishes".
18. In section 22(1) for the words "the parish of each benefice" there shall be substituted the words "every parish belonging to each benefice".
19. Where, by a pastoral scheme or by a scheme made under the Church Representation Rules, a team council is established in respect of a benefice which comprises more than one parish, the functions under Part II of this Measure of the parochial church councils of those parishes shall be exercisable by the team council.
20. Where, by a pastoral scheme or by a scheme made under the Church Representation Rules, a joint parochial church council is established for all the parishes of a benefice, the functions under Part II of this Measure of the parochial church councils of those parishes shall be exercisable by the joint parochial church council.
- Benefice of which parochial church council is the patron*
21. Where the parochial church council of the parish belonging to a benefice is the patron of the benefice, Part II of this Measure shall have effect in relation to that benefice as if the provisions thereof requiring the appointment of parish representatives and the approval of such representatives to the making of an offer to present a priest to the benefice, and any other provisions thereof referring to such representatives, were omitted.

Patronage Measure (Isle of Man) 1997

Benefices held in plurality

22. Where two or more benefices are held in plurality, the provision of Part II of this Measure shall have effect in relation to them as if they were a single benefice comprising two or more parishes.

Section 41. **SCHEDULE 5**
REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
7 & 8 Eliz.2 No. 2	The Vacancies in Sees Measure 1959.	Section 1. The Schedule.
1978 No. 1	The Dioceses Measure 1978.	In the Schedule, in paragraph 10, the words from "and for" to the end.

Section 3(2) & (3). **SCHEDULE 2**
MODIFICATIONS OF CERTAIN ENACTMENTS

PART 1

MODIFICATIONS OF CHURCH REPRESENTATION RULES

Rule 19: joint parochial church councils

1. (1) In rule 19(1)(c), at the beginning insert "subject to paragraph 20 of Schedule 2 to the Patronage (Benefices) Measure 1986,".
- (2) In rule 19(2), after "said Measure" insert "and subject to paragraph 20 of Schedule 2 to the Patronage (Benefices) Measure 1986,".
- (3) In rule 19(4) –
 - (a) for "bishop's council and standing committee" substitute "standing committee of the diocesan synod"; and
 - (b) for "bishop's council" (in the second place) substitute "standing committee".

Rule 20: team councils

- 2.. (1) In rule 20(1)(c), at the beginning insert "subject to paragraph 20 of Schedule 2 to the Patronage (Benefices) Measure 1986,".
- (2) In rule 20(2), after "said Measure" insert "and subject to paragraph 20 of Schedule 2 to the Patronage (Benefices) Measure 1986,".

Rule 21: group councils

3. (1) In rule 21(1)(c), after "1983" insert "and its functions under Part II of the Patronage (Benefices) Measure 1986".
- (2) In rule 21(3), at the end insert "except that the functions of a parochial church council under Part II of the Patronage (Benefices) Measure 1986 may not be delegated to a group council".

Patronage Measure (Isle of Man) 1997

PART 2

MODIFICATIONS OF PASTORAL MEASURE 1983

Section 18: holding of benefices in plurality

1. In the proviso to section 18(2) –
 - (a) for "section 1 of the Benefices (Exercise of Rights of Presentation) Measure 1931" substitute "section 7 of the Patronage (Benefices) Measure 1986";
 - (b) in paragraph (b), for "section 1" substitute "section 7".

Section 32: provisions as to patronage

2. (1) In section 32(3), for the words from "the diocesan" onwards substitute "the bishop".
 - (2) Omit section 32(10)."

Section 69: restrictions on presentation pending scheme &c

3. In section 69(2) –
 - (a) omit the words from "or where" to "dioceses concerned," and
 - (b) for the words from "and the requirement" onwards substitute "and the provisions of section 7 of the Patronage (Benefices) Measure 1986 shall, subject to the modifications made by section 70 of this Measure, apply".

Section 70: modification of Patronage (Benefices) Measure 1986

4. In section 70 –
 - (a) in paragraph (a), for "section 1 of the Benefices (Exercise of Rights of Presentation) Measure 1931" substitute "section 7 of the Patronage (Benefices) Measure 1986";
 - (b) in paragraph (d), for "section 1" substitute "section 7(4)".

Sections 71 & 72: savings

5. Omit sections 71 and 72.

Section 81: application to the Crown

6. In section 81(1), omit "Without prejudice to the application of section 72 to the Crown," "or, as the case may be, of the Duke of Cornwall," and the words from "whether in right" onwards.

Certain provisions of Schedule 3: supplementary

7. (1) In paragraph 1(6) of Schedule 3, for "a suffragan or" substitute "an", and at the end insert "being a person who has made the declaration of membership within the meaning of the Patronage (Benefices) Measure 1986".

- (2) For paragraph 3 of Schedule 3 substitute –

"3. Where a group ministry is established by a pastoral scheme for a group of benefices, the patron of a benefice in the group shall consult the other incumbents and any priests in charge in the group before he makes a request under section 13 of the Patronage (Benefices) Measure 1986 for the approval of the parish representatives (as defined in section 11(7) of that Measure), and (unless the patron is the bishop) of the bishop, to the making to a priest of an offer to present him to the benefice."

Patronage Measure (Isle of Man) 1997

- (3) In paragraph 4(3)(c) of Schedule 3, at the beginning insert "subject to paragraph 19 of Schedule 2 to the Patronage (Benefices) Measure 1986,".
- (4) Omit paragraph 6.
- (5) In paragraph 13 –
 - (a) at the beginning of sub-paragraph (1)(c) insert "subject to paragraph 20 of Schedule 2 to the Patronage (Benefices) Measure 1986,";
 - (b) omit sub-paragraph (3).