



Statutory Document No. 0435/13

CHURCHWARDENS MEASURE (ISLE OF MAN) 2013

<i>Approved by Sodor and Man Diocesan Synod</i>	<i>25th June 2013</i>
<i>Approved by Tynwald</i>	<i>15th October 2013</i>
<i>Royal Assent given</i>	<i>10th December 2013</i>
<i>Announced to Tynwald</i>	<i>10th 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.

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;

"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) 2012¹;

"register of electors" means a register of electors in force under the Registration of Electors Act 2006²;

"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 1986³.
- (3) A scheme under subsection (1) shall not have effect unless it is approved by the Sodor and Man Diocesan Synod.

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 —

¹ SD 654/12

² 2006 c.12

³ 1986 c.26

- (i) any offence involving dishonesty or deception, or
 - (ii) any offence mentioned in Schedule 1 to the Children and Young Persons Act 1966⁴;
 - (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 2009⁵.
- (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 2001⁶;
 - (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.
- (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.

⁴ XX p.89

⁵ 2009 c.4

⁶ 2001 c.6

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 by paragraph (b), (c), (d) or (e) of section 5(2) or section 5(4),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 in writing waive the disqualification imposed by the provision in question.
- (4) A permission or waiver under this section applies only to the period of office next following the date on which it is given

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.

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 Chief Registrar.
- (7) In this section —
 - "ecclesiastical charity" has the same meaning as in Schedule 3 to the Church Act 1992⁷;
 - "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.

⁷ 1992 c.5

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);
 - (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.

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) in subsections (3) and (7), for "churchwardens of" substitute "relevant churchwardens in relation to";
 - (b) in subsection (8) —
 - (i) in the definition of "parish", after "ancient" insert "ecclesiastical";
 - (ii) at the end insert —

""the relevant churchwardens" means the churchwardens of the ecclesiastical parish which is designated for the purpose of this section in relation to the parish in question by a scheme under section 4 of the Churchwardens Measure (Isle of Man) 2013.".
- (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.

Section 7(6).

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

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- (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.

Section 14(3).

SCHEDULE 2

REPEALS

<i>Reference</i>	<i>Short title</i>	<i>Extent of repeal</i>
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.