



Statutory Document No. 2017/0224

SAFEGUARDING AND CLERGY DISCIPLINE MEASURE (ISLE OF MAN) 2017

Approved by Sodor and Man

Diocesan Synod

6th July 2016

Approved by Tynwald

21st March 2017

Royal Assent given

18th July 2017

Announced to Tynwald

18th July 2017

A MEASURE enacted pursuant to the Church Legislation Procedure Act 1993 to extend to the Isle of Man the Safeguarding and Clergy Discipline Measure 2016 and certain provisions of the Dioceses, Pastoral and Mission Measure 2007; to amend the Churchwardens Measure (Isle of Man) 2013; and for connected purposes

1. Short title

The short title of this Measure is the Safeguarding and Clergy Discipline Measure (Isle of Man) 2017.

2. Commencement

- (1) This Measure comes into operation on such day or days as the Bishop may by order appoint.
- (2) An order under subsection (1) may include such transitional provisions as appear to the Bishop to be necessary or expedient for the purposes of the order.

3. Extension of 2016 Measure to the Isle of Man

The Safeguarding and Clergy Discipline Measure 2016¹ extends to the Isle of Man subject to the modifications specified in Schedule 1.

¹ 2016 No.1

4. Amendment of Churchwardens Measure

The Churchwardens Measure (Isle of Man) 2013² is amended in accordance with Schedule 2.

5. Delegation of functions to assistant bishop

Sections 13, 15 and 16 of the Dioceses, Pastoral and Mission Measure 2007³ extend to the Isle of Man subject to the modifications specified in Schedule 3.

6. Minor and consequential amendments

The enactments specified in Schedule 4 are amended in accordance with that Schedule.

² SD 453/13

³ 2007 No.1

Section 3.

SCHEDULE 1
MODIFICATIONS OF SAFEGUARDING AND CLERGY DISCIPLINE
MEASURE 2016

Safeguarding children and vulnerable adults

1. (1) In section 1(1), in the new section 36(1)(e), for "local authority or the police" substitute "Department or the Chief Constable".
(2) In section 1(5), in the new section 37(1)(e), after "provided by" insert "a Department or the Chief Constable or, in the case of an archbishop,".
(3) In section 1(8)(a), at the appropriate places insert —
 "*the Chief Constable*" means the Chief Constable of the Isle of Man;"
 "*Department*" means a Department of the Isle of Man Government;".
2. Omit section 2.
3. (1) In section 3(1) —
(a) for "in paragraph (1), after sub-paragraph (a)" substitute "at the beginning";
(b) in the new rule 46A(aa) and (ab), omit ", a district church council";
(c) in the new rule 46A(ab) and (ad), for "1933" substitute "1966 (an Act of Tynwald)".
(2) In section 3(2) —
(a) omit paragraph (a);
(b) for paragraph (b) substitute —
 "(b) in sub-paragraph (f), at the end insert "or becomes disqualified in accordance with the provisions of rule 46A(aa) or (ab) hereof;".
(3) In section 3(3), in the new rule 46B —
(a) at the beginning, insert the heading "*Waiver of disqualification*";
(b) in paragraph (1), for "46A(1)(ab) or (ad)" substitute "46A(ab) or (ad)";
(c) in paragraph (5), for "46A(1)(ab)" substitute "46A(ab)".
(4) In section 3(4), in the new rule 46C —
(a) in paragraph (1) —
 (i) omit ", district church council";
 (ii) for "1933" substitute "1966 (an Act of Tynwald)";
(b) in paragraph (2), for "local authority or the police" substitute "Department or the Chief Constable";
(d) in paragraphs (7) and (9), after "paragraph (4)" insert "or rule 46D(2)".
(e) in paragraph (14), at the appropriate places insert —
 "*the Chief Constable*" means the Chief Constable of the Isle of Man,"
 "*Department*" means a Department of the Isle of Man Government;".
(5) In section 3(4), in the new rule 46D —

- (a) at the beginning, insert the heading "*Appeal against suspension*";
 - (b) in paragraphs (1) and (2), for "president of tribunals" substitute "Vicar General".
- (6) In section 3(6), in the new paragraph (9), for "1933" substitute "1966 (an Act of Tynwald)".
- (7) For section 3(7) substitute —
- "(7) In Section 4 of Appendix 1 to the Rules (notice of annual parochial church meeting), in note 2, for "rule 12(2)(c)" substitute "rule 46A"."
- (8) Omit section 3(8) and (9).
4. (1) In section 4(1)(a), for "section 6B of the Churchwardens Measure 2001" substitute "section 9C of the Churchwardens Measure (Isle of Man) 2013".
- (2) For section 4(2) substitute —
- "(2) For section 26(1) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 substitute —
- "(1) The Legislative Committee of the Sodor and Man Diocesan Synod may make rules for carrying into effect —
- (a) this Measure;
 - (b) the 1963 Measure;
 - (c) the 1964 Measure;
 - (d) the Clergy Discipline Measure 2003;
 - (e) Schedule 6 to the Mission and Pastoral Measure (Isle of Man) 2012;
 - (f) the provisions referred to in section 4(1) of the Safeguarding and Clergy Discipline Measure 2016;
- (hereafter referred to in this section as "the relevant provisions")."
- (3) Omit section 4(3).
5. In section 5(2)(b), omit ", suffragan".
6. (1) In section 6, for the heading substitute "Interpretation".
- (2) For section 6(4) to (8) substitute —
- "(4) An order under subsection (3) shall not extend to the Isle of Man except in accordance with subsections (5) and (6).
- (5) The Sodor and Man Diocesan Synod may resolve that an order under subsection (3) shall extend to the Isle of Man with such exceptions, adaptations and modifications, and with effect from such date, as may be specified in the resolution.
- (6) A copy of a resolution under subsection (5) shall be laid before Tynwald as soon as may be after it is passed, and if Tynwald, at the sitting at which it is laid or the next following sitting, resolves that the resolution be annulled, it shall cease to have effect.
- (7) References in this Measure to any Measure (including this Measure) or to any provision of a Measure are to that Measure or provision as it has effect in the Isle of Man."

Safeguarding and Clergy Discipline Measure (Isle of Man) 2017

Clergy discipline proceedings

7. In sections 7(2) and 8(3), for "commencement of this section" substitute "extension of this section to the Isle of Man".
8. Omit section 10.

Final provisions

9. Omit section 12(2) to (8).

Section 4.

SCHEDULE 2
AMENDMENTS OF CHURCHWARDENS MEASURE (ISLE OF MAN)
2013

1. In section 3, at the appropriate place insert —

""diocesan safeguarding advisor" means the person appointed as such for the diocese of Sodor and Man in accordance with provision made by Canon;"
2. After section 5(3) insert —

"(3A) A person is disqualified for being chosen for the office of churchwarden if he or she is included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 (an Act of Parliament))."
3. (1) In section 6(1), for paragraph (b) substitute —

"(b) would be disqualified under section 5(2) or (4)."

(2) For section 6(3) and (4) substitute —

"(3) In a case falling within subsection (1)(b), the Bishop may waive the disqualification in question by giving written notice to the person concerned; and the notice must specify the Bishop's reasons for giving the waiver.

(4) Before giving a waiver under subsection (3) in respect of a disqualification imposed by section 5(2)(a)(ii), the Bishop must consult —

 - (a) the diocesan safeguarding advisor, and
 - (b) such other persons as the Bishop considers appropriate.

(5) On giving a notice under subsection (3), the Bishop shall give a copy of the notice to the Diocesan Registrar; and the Registrar shall file the copy in the diocesan registry.

(6) A permission under subsection (2) applies only to the period of office next following the date on which it is given.

(7) A waiver under subsection (3) is of unlimited duration."
4. After section 9 insert —

"9A Suspension

(1) This section applies where —

 - (a) a churchwarden is arrested on suspicion of committing an offence mentioned in Schedule 1 to the Children and Young Persons Act 1966 or is charged with such an offence without being arrested, or
 - (b) the Bishop is satisfied, on the basis of information provided by a Department or the Chief Constable, that a churchwarden presents a significant risk of harm.

(2) The Bishop may suspend the person from the office of churchwarden by giving written notice to him or her; and the notice must specify the Bishop's reasons for imposing the suspension.

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

"child" means a person aged under 18;

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

9B Duration of suspension

- (1) Where, in reliance on section 9A(1)(a), a notice of suspension is given under section 9A(2) and the suspension has not been revoked under section 9A(3) or 9C(2), the suspension continues until the earlier of —
 - (a) the expiry of 3 months beginning with the day on which the notice is given, and
 - (b) the conclusion of the matter.
- (2) If, in the case of a suspension made in reliance on section 9A(1)(a), the matter is not concluded before the expiry of the period referred to in subsection (1)(a), a further notice of suspension under section 9A(2) may

be given to the person; and subsection (1) and this subsection apply to the further suspension as they applied to the earlier suspension or suspensions.

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

9C Appeal against suspension

- (1) A person to whom a notice of suspension is given under section 9A(2) may appeal against the suspension to the Vicar General.
 - (2) On an appeal under this section, the Vicar General may, within 28 days following the lodging of the appeal, either confirm or revoke the suspension."
5. (1) In section 11(3)(c), after "section 5(2)" insert " or (3A)".
- (2) After section 11(3) insert —
- "(4) Where the office of churchwarden is vacated under subsection (3)(c) on a person becoming disqualified under section 5(2), he or she may resume the office if the disqualification is waived under section 6(3) and the office has remained vacant."

Section 5.

SCHEDULE 3
MODIFICATIONS OF PROVISIONS OF DIOCESES, PASTORAL AND
MISSION MEASURE 2007

1. (1) In the heading to section 13, omit "suffragan bishop or".
 - (2) In section 13(1) —
 - (a) for "a suffragan" substitute "an assistant";
 - (b) omit the words from "or functions" onwards.
 - (3) In section 13(3), (4), (7)(c) and (9), for "suffragan" (in each place) substitute "assistant".
 - (4) In section 13(6) —
 - (a) for "suffragan" (in the first place) substitute "assistant";
 - (b) omit the words in brackets.
 - (5) In section 13(8), omit "bishop's council and".
 - (6) In section 13(12), for "the Commissioners, the Commission" substitute "the Church Commissioners for England".
 - (7) Omit section 13(16).
2. In sections 15 and 16 —
 - (a) omit "or a reorganisation scheme" and "or scheme";
 - (b) for "a suffragan" substitute "an assistant".

Section 6.

SCHEDULE 4
MINOR AND CONSEQUENTIAL AMENDMENTS

Care of Churches and Ecclesiastical Jurisdiction Measure (Isle of Man) 1992 (GC 485/92)

1. In the Schedule —
 - (a) omit paragraph 21(1);
 - (b) in paragraph 24(3), omit the substituted section 31(4).

Clergy Discipline Measure (Isle of Man) 2005 (SD 538/05)
2. In Schedule 1 —
 - (a) omit paragraph 8;
 - (b) in paragraph 15(2), after the substituted section 43(2) insert —

"(2A) In the application of this Measure to the diocese of Sodor and Man references to the bishop's council shall be construed as references to the standing committee of the diocesan synod.";
 - (c) for paragraph 17(1) and (2) substitute —

"(1) Omit section 45(1)."
 - (2) In section 45(2), for "that Measure" substitute "the Care of Churches and Ecclesiastical Jurisdiction Measure 1991", and in paragraph (a) omit ", the Care of Cathedrals Measures 1990 and 1994".

Church (Miscellaneous Provisions) Measure (Isle of Man) 2009 (SD 809/09)

3. In Schedule 3, omit paragraph 2(b).

Church Offices Measure (Isle of Man) 2011 (SD 624/11)
4. (1) In section 1(2), omit paragraph (b).
(2) In section 3(2), for the substituted section 2(4)(a) substitute —

"(a) "the relevant bishop" means—

 - (i) the assistant bishop, if any, of the diocese to whom the right of collation or institution to the vacant ecclesiastical office has been delegated by an instrument in force under section 13 of the Dioceses, Pastoral and Mission Measure 2007;
 - (ii) if sub-paragraph (i) does not apply, the bishop to whom the right to institute to the ecclesiastical office has been delegated by an instrument in force under section 14 of that Measure; or
 - (iii) if neither sub-paragraph (i) nor sub-paragraph (ii) applies and a new bishop has been appointed to fill the vacancy in the see, that bishop;"
- (3) For section 3(3) substitute —

"(3) In section 2(5), omit the words from "or, in the case" onwards."

Ecclesiastical Offices (Terms of Service) Measure (Isle of Man) 2012 (SD192/12)

5. In the Schedule, for paragraph 16(10) and (11) substitute —

"(10) Omit paragraphs 16 to 18 and 20 to 22."