



Isle of Man

Ellan Vannin

SM 1 of 1992

**CARE OF CHURCHES AND
ECCLESIASTICAL JURISDICTION
MEASURE (ISLE OF MAN) 1992**



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CARE OF CHURCHES AND ECCLESIASTICAL JURISDICTION MEASURE (ISLE OF MAN) 1992¹

<i>Approved by Sodor and Man Diocesan Synod:</i>	<i>28 November 1991</i>
<i>Approved by Tynwald:</i>	<i>19 May 1992</i>
<i>Received Royal Assent:</i>	<i>28 October 1992</i>
<i>Announced to Tynwald:</i>	<i>17 November 1992</i>

A MEASURE enacted pursuant to the *Church (Application of General Synod Measures) Act 1979* to extend the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 to the Isle of Man.

1 Extension of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991

The Care of Churches and Ecclesiastical Jurisdiction Measure 1991² (a Measure of the General Synod of the Church of England) shall extend to the Island subject to the modifications specified in the Schedule.

2 Short title and commencement

- (1) This Measure may be cited as the Care of Churches and Ecclesiastical Jurisdiction Measure (Isle of Man) 1992.
- (2) This Measure shall come into operation on such day or days as the Bishop may by order appoint. ¹

¹ SM 1 of 1992 (formerly GC 1992/0485)

² 1991 No.1

SCHEDULE

MODIFICATIONS SUBJECT TO WHICH THE CARE OF CHURCHES AND ECCLESIASTICAL JURISDICTION MEASURE 1991 HAS EFFECT IN THE ISLAND

Diocesan Advisory Committee

1. (1) In section 2(2), omit the words from "containing" onwards.
- (2) In section 2(3), for "such further provisions consistent with those set out in Schedule 1 to this Measure" substitute "such provisions".
- (3) In section 2(7), omit the words from "and the secretary" onwards.
- (4) In section 2(8), for "Section 13 of the 1964 Measure" substitute "Section 10 of the *Church Act 1979* (an Act of Tynwald)".

Inspection of churches

2. In section 3, for "Inspection of Churches Measure 1955" substitute "*Church Act 1979* (an Act of Tynwald)".

Duties of churchwardens as to records

3. In section 4(3), for "Council for the Care of Churches" substitute "bishop of the diocese concerned".

Duties of churchwardens as to fabric etc.

4. In section 5(1)(b), for "Inspection of Churches Measure 1955" substitute "*Church Act 1979* (an Act of Tynwald)".

Trees in churchyards

5. Omit section 6.

Duties of diocesan board of finance

6. In section 7, for "Inspection of Churches Measure 1955" substitute "*Church Act 1979* (an Act of Tynwald)".

Ecclesiastical jurisdiction — general

7. In section 8(2), for "coming into operation of that amendment" substitute "extension of that amendment to the Isle of Man".

Ecclesiastical Judges and Legal Officers Measure 1976

8. Omit section 9.

9. [Repealed]²

Ecclesiastical Fees Measure 1986

9. Omit section 10.

Faculty jurisdiction — general

10. In section 11(2), for "coming into operation of this section" substitute "extension of this section to the Isle of Man".

Delegation to archdeacon

11. Omit section 14(6).³

12. [Repealed]⁴

Parties

13. In section 16(5), for "coming into force of this section" substitute "extension of this section to the Isle of Man".

Faculties for demolition of churches

14. (1) In section 17(4) —

- (a) in paragraph (a), for ""The London Gazette" and in such other newspapers" substitute "such newspaper or newspapers published and circulating in the Isle of Man";
- (b) in paragraph (b), omit "the Council for the Care of Churches and";
- (c) in paragraph (d), for the words from "(i)" to "other person" substitute "any person".

(2) For section 17(5) substitute —

17(5) Without prejudice to the requirements of subsection (4) above, the court shall not grant a faculty under subsection (2) or (3)(a) above in the case of a church which is registered in the Protected Buildings Register or is in a conservation area unless —

- (a) the registrar has given notice in writing to the Department of Local Government and the Environment;
- (b) the judge of the court has thereafter considered such advice as that Department may have tendered to the court;
- (c) the registrar has given notice in writing to the Manx Museum and National Trust and thereafter either —
 - (i) for a period of at least one month following the giving of the notice reasonable access to the church has been made available to members or officers of that body for the purpose of recording it; or

- (ii) that body has stated in writing that it has completed its recording of the church or that it does not wish to record it. **22**.⁵

(3) In section 17(6)(b), for "a listed building" substitute "registered in the Protected Buildings Register".

(4) In section 17(7), for "coming into force of this section" substitute "extension of this section to the Isle of Man".

Emergency demolition of churches

15. (1) In section 18(1), for "coming into operation of this section" substitute "extension of this section to the Isle of Man".

(2) In section 18(1)(b) and (2)(b), for "a listed building" substitute "registered in the Protected Buildings Register".

(3) In section 18(2)(b), for "local planning authority" substitute "Department of Environment, Food and Agriculture".⁶

(4) In section 18(3), for the words from "Council" onwards substitute "said Department".

Deposit of articles for safe keeping

16. For section 21(7) substitute —

- 23**(7) In this section "article" does not include any register or article to which the *Church Records Measure (Isle of Man) 2000* applies. **22**.⁷

Removal of legal effects of consecration

17. (1) In section 22(1)(a), after "purposes)" insert ", by the churchwardens of any parish jointly with any such corporation".

(2) In section 22(3), for "Secretary of State" substitute "Department of Environment, Food and Agriculture".⁸

(3) In section 22(5), after "enforceable" insert ", subject to section 29 (registration of encumbrances) of the *Registration of Deeds Act 1961* (an Act of Tynwald) and to the provisions of the *Land Registration Act 1982* (an Act of Tynwald),".

(4) After section 22(5) insert —

- 24**(5A) For the purposes of section 11(1) of the said Act of 1961 the archdeacon shall be deemed to be a person legally or beneficially interested in the building or land affected; and for the purposes of the said Act of 1982 a condition or requirement shall be treated as falling within Part I of Schedule 6 (registrable burdens) to that Act. **22**

(5) For section 22(7) substitute —

66 (7) Section 1 of the *Conveyancing Act 1983* (an Act of Tynwald) (which enables the court to discharge or modify restrictions affecting land) shall not apply in relation to conditions and requirements imposed under subsection (2) above. 67

(6) Omit section 22(8).

Application to Crown land

18. For section 23(4) substitute —

68 (4) In this section —

"the appropriate authority" means —

- (a) in relation to Crown land vested in or managed by a Department or Statutory Board or a government department of the United Kingdom, that Department, Board or department;
- (b) in relation to any other Crown land, the Governor in Council;

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

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

"Department", "the Governor in Council" and "Statutory Board" have the meanings given by the *Interpretation Act 1976* (an Act of Tynwald). 69

Public notices

19. In section 24, for "Section 4 of the Parish Notices Act 1837" substitute "Section 6 of the *Public Notices Act 1872* (an Act of Tynwald)".

Rule Committee

20. Omit section 25.⁹

Functions of Rule Committee

21. (1) [Repealed]¹⁰

(2) In section 26(2) —

- (a) in paragraph (a), after "practice" insert "in the Isle of Man", and omit the words from "or the Care" onwards; and
- (b) omit paragraph (b).

(3) In section 26(3) —

- (a) for "Rule Committee" substitute "Legislative Committee";
 - (b) omit paragraph (b); and
 - (c) in paragraph (c), for "section 25 of the Parochial Registers and Records Measure 1978" substitute "*Church Records Measure (Isle of Man) 2000*".¹¹
- (4) After section 26(3) insert —
- ▣(4) Rules made under this section may provide that the rules made under this section as it has effect in England shall have effect in the Isle of Man subject to such modifications as may be prescribed. ▣.

Rules: supplementary provisions

22. (1) In section 27(1), omit paragraph (c).
- (2) For section 27(2) substitute —
- ▣(2) Any rules made under section 24 above shall not have effect unless they are approved by the Sodor and Man Diocesan Synod, and shall be laid before Tynwald as soon as may be after they are so approved. ▣.
- (3) Omit section 27(3) and (4).

Registrars' fees

23. Omit section 29.

Interpretation

24. (1) In section 31(1) —
- (a) omit the definitions of "administrative body", "Cathedrals Fabric Commission", "Council for the Care of Churches", "high judicial office", "listed building", "local planning authority", "national amenity society", "Rule Committee" and "parish church";¹²
 - (b) in the definition of "conservation area", for "Planning (Listed Buildings and Conservation Areas) Act 1990" substitute "*Town and Country Planning Act 1991* (an Act of Tynwald)";
 - (c) for the definition of "Diocesan Board of Finance" substitute —
 - ▣"Diocesan Board of Finance" means the Sodor and Man Diocesan Board of Finance; ▣;
 - (d) for the definition of "parish" substitute —
 - ▣"parish" means an ecclesiastical parish; ▣;
 - (e) after the definition of "prescribed" insert —

64 "Protected Building Register" means the register maintained under section 1 of the *Town and Country Planning Act 1991* (an Act of Tynwald); 65.

(2) In section 31(2)(b), for the words in brackets substitute "(not being a church or chapel which is not subject to the jurisdiction of the bishop of the diocese)".

(3) For section 31(4) substitute —

66 (4) [Repealed]¹³

(4A) References in this Measure to any provision of a Measure (including this Measure) are to that provision as it has effect in the Isle of Man. 67.

(4) In section 31(5), for "section 13 of the 1964 Measure" substitute "section 10 of the *Church Act 1979* (an Act of Tynwald)".

(5) In section 31(6), for the words from "the Ancient" onwards substitute "any enactment relating to ancient monuments or town and country planning".

Citation etc.

25. Omit section 33(2) and (3).

Constitution of Diocesan Advisory Committee

26. Omit Schedule 1.

Inspection of churches

27. (1) Schedule 3 is modified as follows.

(2) In the heading, for "INSPECTION OF CHURCHES MEASURE 1955" substitute "CHURCH ACT 1979".

(3) In paragraph 1, for "Inspection of Churches Measure 1955" substitute "*Church Act 1979* (an Act of Tynwald)".

(4) In paragraph 2, for sub-paragraphs (a) and (b) substitute —

68 (a) in paragraph (c), for the words an architect or architects, surveyor or other suitably qualified person" substitute "a qualified person or persons";

(b) in paragraph (d), after "situate" insert "to the incumbent of the benefice comprising that parish and to the secretary of the diocesan advisory committee of the diocese". 69.

(5) In paragraph 3 —

(a) in section 1A —

(i) for "Measure" substitute "Act";

(ii) in paragraph (b), for the words from "Council" to "jointly" substitute "Manx Museum and National Trust"; and

- (iii) omit paragraph (c); and
- (b) omit section 1B.
- (6) In paragraph 5 —
 - (a) for "section 6" substitute "section 11";
 - (b) in sub-paragraph (a), for ""bishop"" substitute ""benefice"", and in the definition of "church" —
 - (i) in paragraph (a), omit "other than one to which the Care of Cathedrals Measure 1990 applies";
 - (ii) in paragraph (b), for the words in brackets substitute "(not being a church or chapel which is not subject to the jurisdiction of the bishop of the diocese)";
 - (b) in sub-paragraph (b), in the definition of "qualified person", for "Architects Registration Acts 1931 to 1969" substitute "*Architects Act 1976* (an Act of Tynwald)".

Amendment of Ecclesiastical Jurisdiction Measure 1963

28. (1) Schedule 4 is amended as follows.
- (2) In paragraph 2 —
- (a) omit sub-paragraph (a);
 - (b) in sub-paragraph (b), after "solicitor" insert "or an advocate of the Manx bar";
 - (c) for sub-paragraph (c)(ii) substitute —
 - (ii) for the words "without limit of time" there shall be substituted the words "for the period beginning with the date of the appointment and ending with the date on which he attains the age of 72 years";
 - (iii) at the end there shall be inserted the following paragraph —
 - (c) may continue to act as chancellor for the purpose of any proceedings or cause of faculty in the consistory court or the chapter court of the diocese during the course of which he attains the age of 72 years as if the date of the conclusion in that court of those proceedings or that cause, as the case may be, were the date on which he attains that age." 22;
 - (d) in sub-paragraph (d), in the new section 2(4A), for "the age at which a puisne judge of the High Court is obliged to vacate that office" substitute "the age of 75 years".
- (3) Omit paragraph 9.
- (4) In paragraph 11, after the new section 81(4) insert —

- 32(5) In this section "the High Court", in relation to a court in the Isle of Man, means the High Court of Justice of the Isle of Man. 32.

Further amendments

29. Omit Schedules 5 and 6.

Minor and consequential amendments

30. (1) Schedule 7 is modified as follows.
- (2) Omit paragraph 1.
- (3) In paragraph 2 —
- (a) for "that Measure" substitute "the Faculty Jurisdiction Measure 1964";
- (b) for "coming into force" substitute "extension to the Isle of Man".
- (4) [Repealed]¹⁴
- (5) For paragraph 3 substitute —
33. For section 15 of that Measure there shall be substituted —
- "15. In this Measure unless the context otherwise requires —
- "**advisory committee**" means the diocesan advisory committee constituted under section 2 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991, as it has effect in the Isle of Man;
- "**Bishop**" means the Bishop of Sodor and Man;
- "**church**" includes any building or part of a building which is licensed for public worship according to the rites and ceremonies of the Church of England and is subject to the faculty jurisdiction;
- "**court**" means the consistory court of the diocese of Sodor and Man;
- "**judge**" means the judge of the court;
- "**prescribed**" means prescribed by rules made under section 26 of the said Measure." 33.
- (6) In paragraph 4, for sub-paragraph (b) substitute —
- 34(b) in rule 24(2)(a), at the end there shall be inserted —
- "(v) the chairman of the diocesan advisory committee (if in Holy Orders);";
- (c) in rule 24(3)(a), at the end there shall be inserted —
- "(iii) the chairman of the diocesan advisory committee (if not in Holy Orders); 34.
- (7) [Repealed]¹⁵

(8) Omit paragraph 6.

Acts and Measures repealed

31. For Schedule 8 substitute —

☒ SCHEDULE 8		
Section 32(2)		
ENACTMENTS REPEALED		
PART 1		
MEASURES		
Chapter	Short title	Extent of repeal
1963 No.1	The Ecclesiastical Jurisdiction Measure 1963.	Section 64. Section 65. Section 65A.
1964 No.5	The Faculty Jurisdiction Measure 1964.	Section 2. Section 5. Section 9. Section 10. Section 12. Section 14. The Schedule.
PART 2		
ACTS OF TYNWALD		
Reference	Short title	Extent of repeal
IV p.158	The Public Notices Act 1872.	Section 6.
XXI p.94	The Church Act 1969.	In Schedule 1, paragraphs 2(b) and 5.
1979 c.10	The Church Act 1979.	Section 10. In section 11, the definition of "advisory committee". In Schedule 2, paragraphs 6, 9, 11,13, 15, 16 and 17.

ENDNOTES

Table of Endnote References

- ¹ ADO - (a) on 01 April 1993, in relation to the 1991 Measure, sections 2 (except subs (7)), 8 (in part), 25, 26, 27, 32 (in part) & 33, Sch 4 paras 1 to 4 & 10, Sch 7 paras 2A, 3 & 5A and Sch.8 (in relation to Ecclesiastical Jurisdiction Measure 1963, Faculty Jurisdiction Measure 1964 s 14 & Sch, Church Act 1969 and Church Act 1979 s 10(1) & 11 and Sch 2 paras 15, 16, 17 & 19); (b) on 01 January 1994 in relation to the remainder of the Measure [SD 102/93].
- ² Para 9 repealed by Church Fees Measure (Isle of Man) 2014 Sch 4.
- ³ Para 11 substituted by Church (Miscellaneous Provisions) Measure (Isle of Man) 2009 s 3.
- ⁴ Para 12 repealed by Church (Miscellaneous Provisions) Measure (Isle of Man) 2009 s 3.
- ⁵ Substituted subsection (5) amended by Statute Law Revision Measure (Isle of Man) 1994 Sch 1.
- ⁶ Subpara (3) amended by SD 155/10 and by Statute Law Revision Act 2017 s 50.
- ⁷ Substituted subs (7) substituted by Church Records Measure (Isle of Man) 2000 s 32.
- ⁸ Subpara (2) amended by SD 155/10 and by Statute Law Revision Act 2017 s 50.
- ⁹ Para 20 substituted by Church (Miscellaneous Provisions) Measure (Isle of Man) 2009 Sch 3.
- ¹⁰ Subpara (1) repealed by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 4.
- ¹¹ Subpara (3) substituted by Church (Miscellaneous Provisions) Measure (Isle of Man) 2009 Sch 3.
- ¹² Para (a) amended by Church (Miscellaneous Provisions) Measure (Isle of Man) 2009 Sch 3.
- ¹³ Substituted subs (4) repealed by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 4.
- ¹⁴ Subpara (4) repealed by Church Fees Measure (Isle of Man) 2014 Sch 4.
- ¹⁵ Subpara (7) repealed by Legal Aid Measure (Isle of Man) 1995 Sch 2.