



Statutory Document No. 538/05

CLERGY DISCIPLINE MEASURE (ISLE OF MAN) 2005

| | |
|---|--------------------------|
| <i>Approved by Sodor and Man Diocesan Synod</i> | <i>9th December 2004</i> |
| <i>Approved by Tynwald</i> | <i>16th March 2005</i> |
| <i>Royal Assent given</i> | <i>13th July 2005</i> |
| <i>Announced to Tynwald</i> | <i>13th July 2005</i> |

A MEASURE enacted pursuant to the Church Legislation Procedure Act 1993 to extend the Clergy Discipline Measure 2003 to the Isle of Man; and for connected purposes

1. Extension of Measure to the Isle of Man

The Clergy Discipline Measure 2003 (a Measure of the General Synod)¹ shall extend to the Isle of Man subject to the modifications specified in Schedule 1.

2. Short title, commencement etc.

(1) This Measure may be cited as the Clergy Discipline Measure (Isle of Man) 2005 and shall come into operation on such day or days as the Bishop may by order appoint.

(2) The enactments specified in Schedule 2 are amended in accordance with that Schedule.

(3) The enactments specified in Schedule 3 are repealed to the extent specified in column 3 of that Schedule.

¹ 2003 No.3

Clergy Discipline Measure (Isle of Man) 2005

Section 1.

SCHEDULE 1

MODIFICATIONS SUBJECT TO WHICH THE MEASURE EXTENDS TO THE ISLE OF
MAN

Preliminary scrutiny of complaint

1. Omit section 11(4).

Courses available to bishop

2. In section 12(1), omit "or the president of tribunals' direction under section 11(4), as the case may be".

No further action

3. Omit section 13(3).

Formal investigation

4. (1) For section 17(1) and (2) substitute —

"(1) Where the bishop directs that the complaint is to be formally investigated, he shall refer the matter to —

- (a) such person as he may appoint for the purpose (hereinafter referred to as "the appointed person"), in the case of a complaint appearing to him to fall within the jurisdiction of a disciplinary tribunal; or
- (b) the designated officer, in the case of a complaint appearing to him to fall within the jurisdiction of the Vicar-General's court;

and it shall then be the duty of the appointed person or the designated officer, as the case may be, to cause inquiries to be made into the complaint.

(1A) If, as a result of such inquiries —

- (a) it appears to the appointed person that the complaint falls within the jurisdiction of the Vicar-General's court, or
- (b) it appears to the designated officer that the complaint falls within the jurisdiction of a disciplinary tribunal,

the appointed person or the designated officer, as the case may be, shall notify the bishop accordingly.

(1B) Subject to subsection (1A) above, after the appointed person has made due inquiries, he shall —

- (a) determine whether there is a case to answer in respect of which a disciplinary tribunal should be requested to adjudicate;
- (b) if he decides that there is a case for the respondent to answer, declare that as his decision and refer the complaint to a disciplinary tribunal for adjudication;
- (c) if he decides that there is no case for the respondent to answer, declare that as his decision (and thereafter no further steps shall be taken in regard thereto); and
- (d) reduce his decision to writing and give a copy of it to the complainant, the respondent and the bishop.

(2) Subject to subsection (1A) above, after the designated officer has made due inquiries, he shall refer the matter to the president of tribunals for the purpose of deciding whether there is a case to answer in respect of which the Vicar-General's court should be requested to adjudicate."

- (2) In section 17(3), for "a disciplinary tribunal or the Vicar-General's court, as the case may be," substitute "the Vicar-General's court".

Clergy Discipline Measure (Isle of Man) 2005

Conduct of proceedings

5. (1) In section 18(1), for "the designated officer" substitute "the appointed person or the designated officer, as the case may be,".

(2) In section 18(2), for "the president of tribunals" substitute "the chancellor of the diocese or the president of tribunals, as the case may be,".

Right of appeal

6. In section 20(1), for "designated officer" substitute "appointed person or designated officer".

Composition of tribunal

7. (1) After section 20 (and the cross-heading following it) insert —

"20A Diocesan panel

(1) It shall be the duty of the standing committee of the diocesan synod to compile and maintain for the diocese, in accordance with subsection (2) below, a list (hereinafter referred to as "the diocesan panel") of persons available for appointment under the following provisions of this Measure as members of a disciplinary tribunal.

(2) The diocesan panel shall consist of —

(a) 6 lay persons appointed by the standing committee, being persons who are resident in the diocese and on the electoral roll of a parish in the diocese; and

(b) 6 persons in Holy Orders appointed by the standing committee, being persons who have served in Holy Orders for at least 7 years and are resident in the diocese.

(3) No person who is not an actual communicant, within the meaning of rule 54(1) of the Church Representation Rules, shall be appointed to serve on the diocesan panel.

(4) Subject to subsections (5) to (7), unless he sooner resigns by notice in writing to the bishop, a person appointed to serve on the diocesan panel shall so serve for a period of 6 years, and on the expiry of that term shall, if otherwise qualified, be eligible to be re-appointed.

(5) Of the persons appointed to serve on the diocesan panel on the first occasion after the extension of this Measure to the Isle of Man, half of those appointed under subsection (2)(a) and half of those appointed under subsection (2)(b) shall serve for a period of 3 years, those so to serve being determined by lot.

(6) A person appointed to fill a casual vacancy on the diocesan panel shall serve for the unexpired term of service of the person in whose place he was appointed.

(7) Where the period of service of a person appointed to serve on the diocesan panel expires while he is a member of a disciplinary tribunal to which proceedings under this Measure are referred, he shall continue to be a member of the tribunal until the completion of the proceedings."

Provincial panels

8. In section 21, at the end insert —

"(9) In its application to the diocese of Sodor and Man the reference in subsection (2)(a) and (b) above to the bishop's council shall be construed as a reference to the standing committee of the diocesan synod."

Disciplinary tribunals

9. (1) For section 22(1) substitute —

"(1) Subject to subsection (1A), a disciplinary tribunal shall consist of

Clergy Discipline Measure (Isle of Man) 2005

- (a) the chairman, who shall be the chancellor of the diocese;
- (b) one lay person appointed by the chancellor from those nominated under section 20A(2)(a) above;
- (c) one lay person appointed by the chancellor from those nominated under section 21(2)(a) or (3)(a) above;
- (d) one person in Holy Orders appointed by the chancellor from those nominated under section 20A(2)(b) above;
- (e) one person in Holy Orders appointed by the chancellor from those nominated under section 21(2)(b) or (3)(b) above.

(1A) If it appears to the chancellor that there is no person nominated under section 20A(2)(a) or (b) above, as the case may be, who is suitable to be appointed a member of the tribunal under subsection (1)(b) or (d) above, he may instead appoint a member from those nominated under section 21(2)(a) or (3)(a) above, or section 21(2)(b) or (3)(b) above, as the case may be, to serve on the relevant provincial panel."

- (2) In section 22(2), for "president of tribunals" substitute "chancellor".

Sentences of imprisonment etc.

- 10. (1) In section 30(1) —
 - (a) in paragraph (a), for "England" substitute "the Isle of Man", and after "sentence of" insert "custody or";
 - (b) in paragraph (b), after "has a" insert "divorce order,", and after "in the case of divorce," insert "the order has been made final or".
- (2) In section 30(2), for "president of tribunals" substitute "chancellor".
- 11. In section 31(1) —
 - (a) in paragraph (a), for "England" substitute "the Isle of Man";
 - (b) in paragraph (b), for "decree of divorce" substitute "divorce order, decree of divorce", and after "in the case of divorce," insert "the order has been made final or".

Duty to disclose convictions etc.

- 12. In section 33(1), for "England" substitute "the Isle of Man".

Duty to disclose divorce etc.

- 13. In section 34, after "whose marriage" insert "a divorce order has been made final or".

Special cases

- 14. (1) In section 42(2), for "council" substitute "chapter".
- (2) Omit section 42(6).

Interpretation

- 15. (1) In section 43(1), after the definition of "the 1963 Measure" insert —
""the appointed person", in relation to any complaint or proceedings arising from a complaint, means the person appointed under section 17(1) above for the purpose of the complaint;".
- (2) For section 43(2) substitute —
"(2) References in this Measure to any Measure (including this Measure) or to any provision of such a Measure shall be construed as references to the Measure or provision as it has effect in the Isle of Man."

Amendments

- 16. (1) Omit section 44(1), (3) and (4).
- (2) In section 44(5)(b), for ""committee"" substitute ""Isle of Man"".

Clergy Discipline Measure (Isle of Man) 2005

Rules

17. (1) In section 45(1) for "paragraph (e)" substitute "paragraph (d)".
- (2) In section 45(2)(a), omit ", the Care of Cathedrals Measures 1990 and 1994".
- (3) Omit section 45(3).

Transitional provisions

18. (1) In section 47(1) and (2), for "comes into operation" substitute "is extended to the Isle of Man".
- (2) In section 47(4) —
 - (a) after "sentences of" insert "custody or"; and
 - (b) for "come into operation" substitute "are extended to the Isle of Man".

Citation etc.

19. Omit section 48(2) and (3).

Amendments of 1963 Measure

20. In Schedule 1, after paragraph 10 insert —
 - "10A. In section 66, at the end insert —
 - "(5) References in this Measure to any Measure (including this Measure) or to any provision of such a Measure shall be construed as references to the Measure or provision as it has effect in the Isle of Man."

Clergy Discipline Measure (Isle of Man) 2005

Section 2(2).

SCHEDULE 2

AMENDMENTS RELATING TO PASTORAL BREAKDOWN

The Legal Aid Measure (Isle of Man) 1995 (SD 546/95)

1. In paragraph 6 of Schedule 1, in the substituted entry 2 in Schedule 1 to the Church of England (Legal Aid) Measure 1994², for "the consistory court" substitute "a tribunal constituted under that Measure".

The Incumbents (Pastoral Breakdown) Measure (Isle of Man) 1996 (SD 714/96)

2. For section 5 substitute —

"5. Inquiry to be conducted by tribunal

(1) An inquiry into the pastoral situation in a parish shall be conducted by a tribunal constituted in accordance with this section ("the tribunal").

(2) Subject to subsection (3), the tribunal shall consist of —

(a) the chairman, who shall be the chancellor of the diocese;

(b) 2 lay persons appointed by the chancellor from those nominated under section 20A(2)(a) of the Clergy Discipline Measure 2003;

(c) 2 persons in Holy Orders appointed by the chancellor from those nominated under section 20A(2)(b) of that Measure.

(3) If it appears to the chancellor that there is no person nominated under the said section 20A(2)(a) or (b), as the case may be, who is suitable to be appointed a member of the tribunal under subsection (2)(a) or (b), he may instead appoint a member from those nominated under section 21(2)(a) or (3)(a), or section 21(2)(b) or (3)(b), as the case may be, of that Measure to serve on the relevant provincial panel.

(4) Without prejudice to subsection (5), at any sitting of the tribunal to which the incumbent concerned is invited, or at which he is entitled to be present, he may, if he so desires, be assisted, or in his absence represented, by some other person whether having professional qualifications or not.

(5) At an inquiry under this Measure any of the following may be represented by an advocate, barrister or solicitor —

(a) the incumbent concerned;

(b) the Archdeacon;

(c) the parochial church council of the parish concerned or, in the case of an inquiry requested by the persons mentioned in section 1(1)(c), the persons specified in the request as being willing to act as the representatives of the first-mentioned persons;

(d) in the case of an inquiry requested by the persons mentioned in section 1(1)(d), the persons specified in the request as being willing to act as the representatives of the first-mentioned persons."

3. In sections 6 to 10 and 14, for "court" (in each place) substitute "tribunal".

4. In section 16(1) —

(a) omit the definition of "the court";

(b) at the end insert —

""the tribunal" means the tribunal constituted under section 5."

5. In paragraph 3 of Schedule 1, in the words substituted in section 14(1) of the Incumbents (Vacation of Benefices) Measure 1977³, for "court" substitute "tribunal".

² 1994 No.3

³ 1977 No.1

Clergy Discipline Measure (Isle of Man) 2005

Section 2(3).

SCHEDULE 3
ENACTMENTS REPEALED

| <i>Reference</i> | <i>Short title</i> | <i>Extent of repeal</i> |
|------------------|--|-------------------------------------|
| XXI p.94 | The Church Act 1969. | In Schedule 1, paragraphs 3A and 7. |
| SD 254/94 | The Statute Law Revision Measure (Isle of Man) 1994 | In Schedule 1, paragraph 3(3). |

