



Statutory Document No. 0654/12

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Statutory Document No. 0654/12

## MISSION AND PASTORAL MEASURE (ISLE OF MAN) 2012

*Approved by Sodor and Man  
Diocesan Synod*

*29th November 2011*

*Approved by Tynwald*

*20th March 2012*

*Royal Assent given*

*10th July 2012*

*Announced to Tynwald*

*16th October 2012*

A MEASURE enacted pursuant to the Church Legislation Procedure Act 1993 to re-enact with amendments the Pastoral Measure 1983; to provide for the creation of mission partnerships; to abolish rural deaneries and the office of rural dean; to abolish the separate districts of certain chapels; and for connected purposes

### PART 1

#### INTRODUCTORY

##### *Introductory*

#### **1. Short title**

The short title of this Measure is the Mission and Pastoral Measure (Isle of Man) 2012.

#### **2. Commencement**

This Measure, except sections 1 to 4 and 47(2), shall come into operation on such day or days as the Bishop may by order appoint.

#### **3. Interpretation**

(1) In this Measure —

"admission" includes institution and induction, collation, licence and any other process by which a person becomes the incumbent of a benefice, and "admit" shall be construed accordingly;

"the advisory committee" means the diocesan advisory committee for the care of churches;

"area", in relation to a benefice, means the parish or parishes belonging to the benefice;

"benefice" means the office of rector or vicar of a parish or parishes, with cure of souls, but not including (except in section 44) the office of a vicar in a team ministry;

"the Board" means the Sodor and Man Diocesan Board of Finance;

"building closed for regular public worship" means a church, or part of a church, to which a declaration of closure for regular public worship relates;

"church" means a church or chapel which has been consecrated for the purpose of public worship according to the rites and ceremonies of the Church of England, and includes a building used or intended to be used partly for the purpose of such public worship and partly for the purpose of a church hall, whether the whole building is consecrated or only such part of it as is used or intended to be used for the purpose of such public worship, and any reference to the consecration of a church shall, in the case of such a building, be construed as including a reference to the consecration of the part of the building used or intended to be used for the purpose of such public worship;

"the Commissioners" means the Church Commissioners for the Isle of Man;

"conservation area" means an area for the time being designated under section 18(1) of the Town and Country Planning Act 1999<sup>1</sup>;

"demolition", in relation to a building, includes the demolition of part of the building;

"diocesan pastoral account" means the account referred to in section 35;

"the Diocesan Synod" means the Sodor and Man Diocesan Synod;

"disposal scheme" means a scheme made by the Commissioners under Part 2 of Schedule 3;

"endowments" in relation to any benefice, does not include a church, churchyard, parsonage house or right of patronage, and the income of the endowments of a benefice includes money payable to the incumbent under Schedule 2 to the Tithe Act 1985<sup>2</sup>, but otherwise any question as to what constitutes the endowments of a benefice or the income of the endowments shall be conclusively determined by the Commissioners, who may include income arising from a parsonage house;

"functions" includes powers and duties;

"the High Court" means the High Court of Justice of the Isle of Man;

"interested parties" has the meaning given by paragraph 1 of Schedule 2;

"local authority" has the same meaning as in the Local Government Act 1985<sup>3</sup>;

"local newspaper" means a newspaper published and circulating in the Island;

"Manx National Heritage" means the Manx Museum and National Trust;

"mission", in relation to the Church of England, means the whole mission of the Church, pastoral, evangelistic, social and ecumenical;

"parish" means a parish constituted for ecclesiastical purposes;

"parsonage house" means the house or other dwelling being the official residence of the incumbent of a benefice (when the benefice is full), and includes any outbuildings or land included in the curtilage of any such house or dwelling and any rights appurtenant thereto;

"pastoral scheme" means a scheme made by the Commissioners under Schedule 2;

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<sup>1</sup> 1999 c.9

<sup>2</sup> 1985 c.17

<sup>3</sup> 1985 c.24

"patron", in relation to any benefice, means the person or persons for the time being entitled, otherwise than by lapse, 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 is for the time being the person who would be entitled to present on the next or any subsequent turn,

and "right of patronage" shall be construed accordingly, but in the application of these definitions the fact that any person is a Roman Catholic shall be disregarded;

"provision" in relation to a building, includes, in addition to construction or erection, the acquisition of a site and the provision of necessary fittings, installations, outbuildings, fences, paths and drives, and "provided" shall be construed accordingly;

"registered building" has the meaning given by section 45(1) of the Town and Country Planning Act 1999;

"registered building consent" means the consent of the Department of Infrastructure under section 15(2) or 19(3) of that Act;

"restoration" includes rebuilding or partial rebuilding;

"sharing agreement" has the same meaning as in the Sharing of Church Buildings Act 1969<sup>4</sup>;

"suspension period" has the meaning given by section 29.

- (2) In this Measure references to —
  - (a) the Sharing of Church Buildings Act 1969,
  - (b) any Measure (including this Measure), or
  - (c) any provision of that Act or any Measure (including the Church Representation Rules),

are to that Act, Measure or provision as it has effect in the Island.

- (3) In determining the net proceeds of the sale or exchange of any property by Board, or the net premium or net rent of any property let by the Board, the deductions to be made include the deduction of any money expended by the Board on the property or for the purpose of furthering the disposal of the property or on the demolition of any building on the property; and if any question arises as to what are the net proceeds, net premium or net rent aforesaid, the decision of the Commissioners shall be conclusive.
- (4) If any question arises under this Measure as to whether —
  - (a) an ecclesiastical office is a benefice, or
  - (b) any area or place is or is within a parish or the area of a benefice,it shall be determined by the Commissioners after consultation with the Bishop, and that determination shall be conclusive for the purposes of this Measure.

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<sup>4</sup> 1969 c.38 (Parliament)

- (5) If any question arises whether any benefice or parish is to be treated, for the purposes of any pastoral scheme or any provisions of this Measure relating to it, as a new benefice or parish or as an existing benefice or parish with altered area or boundaries, any provision of the scheme expressly stating or necessarily implying (whether by a change of name or retention of an existing name or otherwise) that the benefice or parish is to be treated as new or existing shall be conclusive of that question.
- (6) Nothing in this Measure or in any scheme made under it applies to or in any way affects any parish or other district constituted otherwise than for ecclesiastical purposes.

*General duty*

**4. General duty**

Any person or body carrying out functions under this Measure must have due regard to the furtherance of the mission of the Church of England.

*Functions of Church Commissioners*

**5. General functions of Commissioners**

- (1) In carrying out any of their functions the Commissioners must, without prejudice to section 4, have regard to worship, mission and community as central to the life and work of the Church of England.
- (2) In carrying out any of its functions the Commissioners must also have regard to—
  - (a) the financial implications for the diocese and the Church of England as a whole;
  - (b) subject to subsection (5), the need to allocate appropriate spheres of work and to ensure that appropriate conditions of service are enjoyed by those employed or holding office in the diocese and, where relevant, that reasonable remuneration is provided for all those engaged in the cure of souls;
  - (c) the traditions, needs and characteristics of particular parishes; and
  - (d) any other aspects of the policies of the Diocesan Synod to which the Synod has requested the Commissioners to have regard in discharging its responsibilities.
- (3) The Commissioners must —
  - (a) make or assist in making better provision for the cure of souls in the diocese as a whole and, to the extent that the Commissioners think appropriate, in particular parts of the diocese or in particular parishes;
  - (b) from time to time, as the Bishop may direct, or as the Commissioners think fit, review arrangements for pastoral supervision and care —
    - (i) in the diocese as a whole, and
    - (ii) to the extent that the Commissioners think appropriate, in particular parts of the diocese or in particular parishes,  
including sharing agreements in respect of a church or parsonage house and any proposals for sharing agreements;
  - (c) from time to time, as the Bishop may direct, or as the Commissioners think fit, prepare strategies or proposals for carrying out the Commissioners' functions under paragraphs (a) and (b) for submission to the Bishop and the Diocesan Synod for their approval;



- (d) to maintain an overview of matters relating to church buildings in the diocese and their use, other than matters which are within the jurisdiction of the consistory court or within the functions of the advisory committee;
  - (e) where it considers it desirable, make recommendations to the Bishop in accordance with paragraph 2 of Schedule 2 for any of the matters for which provision may be made under this Measure by a pastoral scheme; and
  - (f) carry out any other functions conferred upon the Commissioners by any statutory provision.
- (4) The Commissioners must, in carrying out any of their functions, to the extent that they think appropriate, consult any other persons or bodies, whether within the Church of England or not, which exercise functions or carry out activities relevant to the functions of the Commissioners.
- (5) Nothing in this section enables the Commissioners—
- (a) to exercise functions conferred on any other person or body by or under any statutory provision, or
  - (b) to fix or alter the terms of service of any person employed or holding office in the diocese.

**6. Functions of Commissioners in respect of closed churches**

- (1) The Commissioners must, in respect of each church proposed to be closed or building closed for regular public worship (except where it is proposed to close a church and make provision for the future of the building under paragraph 1 of Schedule 3) —
- (a) in the case of a registered building or a building situated in a conservation area, make every endeavour to find a suitable alternative use or suitable alternative uses for the building, and
  - (b) in the case of any other building, develop proposals for the suitable alternative use or uses of the building or for the demolition of the building and disposal of its site.
- (2) In carrying out its functions under this section the Commissioners must obtain advice from persons having expertise in the management, development and disposal of property and such other professional advisers as it thinks fit.

PART 2

CONTENTS AND EFFECT OF PASTORAL SCHEMES

*Changes in benefices and parishes*

**7. Creation, alteration or dissolution of benefices and parishes**

- (1) A pastoral scheme may provide for —
  - (a) the creation, whether by union or otherwise, of new benefices or parishes;
  - (b) the dissolution of existing benefices or parishes;
  - (c) the alteration of the areas of existing benefices or parishes (including the transfer of a parish from one benefice to another) or the definition of their boundaries;
- (2) A pastoral scheme must name every new benefice and new parish created by the scheme, and may alter the name of any benefice or parish.
- (3) A pastoral scheme providing for the union of 2 or more benefices may provide for uniting all the parishes within a new benefice, or for uniting some but not all those parishes, or may leave them as separate parishes.
- (4) A pastoral scheme may provide for the creation of a new parish with full parochial status, even though the parish will have no parish church when the provision comes into operation.
- (5) A pastoral scheme may also authorise the making of sharing agreements on behalf of the Church of England in respect of a church or parsonage house which under the agreement will be in the joint ownership of that Church and any other Church.
- (6) A pastoral scheme authorising the making of any sharing agreement must specify the church or parsonage house to which it relates, and may specify terms and conditions subject to which the authorisation is given.

**8. Holding of benefices in plurality**

- (1) A pastoral scheme may provide for the holding in plurality of any 2 or more benefices subject to such conditions, if any, as may be specified in the scheme.
- (2) Subject to subsection (3), the provisions of a pastoral scheme for the holding of benefices in plurality shall, unless the scheme otherwise provides, continue in force even after a vacancy occurs.
- (3) When the Bishop gives notice of any vacancy or impending vacancy under section 7 of the Patronage (Benefices) Measure 1986<sup>5</sup>, those provisions may be terminated either by the Bishop or by one of the interested parochial church councils, in accordance with subsection (4) or (5).
- (4) The Bishop may state in the notice that the provisions are to be terminated and in that case —
  - (a) he must serve the notice on all the persons who are or, on the termination, become the patrons of the benefices concerned and on the Commissioners; and
  - (b) those provisions shall cease to have effect on the vacancy or the service of the notice, whichever is the later.
- (5) Any interested parochial church council may, within 28 days after the service of the notice, pass a resolution that the provisions are to be terminated, and in that case —

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<sup>5</sup> 1986 No.3

- (a) it must forthwith notify the Bishop of the resolution;
  - (b) the Bishop must notify —
    - (i) the other interested parochial church councils,
    - (ii) the Commissioners, and
    - (iii) all the persons who are, or on the termination become, the patrons of the benefices concerned;
  - (c) the provisions shall cease to have effect on the vacancy or the service of the notice, whichever is the later, and
  - (d) the Bishop shall serve a fresh notice under section 7 of that Measure on all the councils and patrons concerned, which shall have effect in substitution for the previous notice.
- (6) The termination of the provisions under subsection (3) shall be without prejudice to any provisions relating to the future exercise of the rights of patronage of the benefices concerned in the event of a renewal of the plurality.
- (7) Except with the permission of the Bishop, an incumbent of 2 or more benefices held in plurality may not resign any of those benefices without resigning the other or others.
- (8) If permission under subsection (7) is granted for the resignation and there are at least 2 other benefices —
- (a) the resignation shall not affect the holding in plurality of those other benefices, but
  - (b) the Commissioners may by instrument make such consequential amendments of the pastoral scheme which provided for the holding of the benefices in plurality as they think necessary.

*Team and group ministries*

**9. Establishment of team ministries**

- (1) A pastoral scheme may make provision for the establishment of a team ministry for the area of any benefice, and in that case shall provide—
- (a) for the sharing of the cure of souls in that area by —
    - (i) the incumbent of the benefice, and
    - (ii) one or more other ministers, who shall have the title of vicar and a status equal to that of an incumbent of a benefice; and
  - (b) for the pastoral care of persons in that area by —
    - (i) those who are to share the cure of souls there under paragraph (a), and
    - (ii) all other persons who are from time to time authorised by a licence or permission of the Bishop to serve in that area as members of the team.
- (2) The team shall consist of —
- (a) the persons who are to share the cure of souls in the area under subsection (1)(a), who shall constitute the team chapter, and
  - (b) the other persons referred to in subsection (1)(b)(ii).
- (3) The benefice to which the scheme relates, if it is not or would not otherwise be a rectory, shall be a rectory.

- (4) A rector in a team ministry who is not subject to Common Tenure shall hold his or her office for the specified term of years, but —
  - (a) that does not affect the other attributes of the office as a benefice, and
  - (b) in particular, the rector shall be a corporation sole and as such hold the property of the benefice during his or her term of office.
- (5) Subject to subsection (6), no person may be authorised under subsection (1)(b) by licence of the Bishop to serve in a team ministry as a member of the team unless he or she has been nominated for that purpose by the rector with the consent of —
  - (a) a majority of the other members of the team, and
  - (b) each parochial church council concerned.
- (6) It is not necessary for a person referred to in subsection (5) to be nominated by the rector where that person is authorised to serve in a team ministry for a period immediately following a period of service in the team ministry.
- (7) A pastoral scheme establishing a team ministry may provide for the designation or selection of the first rector (who may be the existing incumbent) or the first holder of any office of vicar.
- (8) Subject to any provision under subsection (7) —
  - (a) the rector shall be presented or collated to the benefice in accordance with paragraph 1 of Schedule 1 and the provisions of the scheme made under that paragraph;
  - (b) the vicar or vicars shall be —
    - (i) chosen in accordance with paragraph 2 of that Schedule,
    - (ii) appointed to the office by licence of the Bishop under seal, and
    - (iii) unless the Bishop otherwise directs, shall be publicly admitted in a church in the area.
- (9) Where a pastoral scheme designates a person as the first holder of the office of vicar in a team ministry —
  - (a) the Bishop must offer to issue a licence appointing him or her to the office, and
  - (b) if that person does not accept the offer within one month after it is made to him or her, the designation shall cease to have effect.
- (10) Where —
  - (a) 2 or more benefices are, or are to be, held in plurality, and
  - (b) a team ministry is established or is to be established for the area of one of those benefices,

a pastoral scheme may provide for extending the operation of the team ministry, so long as the plurality continues, to the area of any other benefice so held.
- (11) In this section "specified term of years", in relation to a team ministry, means —
  - (a) the term of years specified for the team ministry for the purposes of subsection (4) by a pastoral scheme; or
  - (b) where no such term of years is so specified, 7 years.

## **10. Status and functions of members of team ministry**

- (1) The rector in a team ministry —

- (a) has a general responsibility for the cure of souls in the area of the benefice, which may be subject to any special cure or special responsibility given to a vicar as provided in this section, and
  - (b) is responsible for the leadership of the team;
- and the scheme establishing the team ministry may make further provision as to the relationship of the rector and other members of the team ministry.
- (2) A vicar in a team ministry by virtue of his office, but subject to his licence, has authority to perform in the area of the benefice all such offices and services as may be performed by an incumbent.
  - (3) The scheme or, subject to the scheme, the Bishop's licence may—
    - (a) assign to a vicar a special cure of souls in respect of a part of the area of the benefice and, if appropriate, the name of vicar of a church in that part;
    - (b) assign to a vicar a special responsibility for a particular pastoral function;
    - (c) provide that any such special cure or responsibility shall be independent of the rector's general responsibility;
    - (d) assign to a vicar a general responsibility to be shared with the rector for a cure of souls in the area as a whole.
  - (4) Subject to subsection (5), any provision mentioned in subsection (3) made by the Bishop's licence may (subject to the scheme) be varied or revoked, with the consent of the rector and the vicar concerned, by a subsequent licence under seal.
  - (5) A woman who is a vicar in a team ministry does not by virtue of subsection (2) have authority to preside at or celebrate the Holy Communion or pronounce the Absolution in a parish to which a resolution in the form set out as Resolution A in Schedule 1 to the Priests (Ordination of Women) Measure 1993<sup>6</sup> applies.
  - (6) A pastoral scheme establishing a team ministry or, subject to the scheme, the Bishop's licence may assign to any member of the team who is not a member of the team chapter a special responsibility for pastoral care in respect of a part of the area of the benefice, so far as consistent with that member's office.
  - (7) Any provision mentioned in subsection (6) made by the Bishop's licence may (subject to the scheme) be varied or revoked by a subsequent licence under seal.
  - (8) The Ecclesiastical Jurisdiction Measures 1963 and 1974 apply to vicars in a team ministry and deacons in a team ministry as if they were incumbents of the benefice for the area of which the team ministry is established.
  - (9) Sections 8 and 9 (age limit) of the Church Act 1992<sup>7</sup> apply to deacons in a team ministry as if they were vicars in the team ministry, and accordingly no person shall be capable of being authorised by licence of the Bishop to serve in a team ministry as such a deacon if at the time of the issue of the licence he has attained the age of 70 years.
  - (10) Where the rector in a team ministry established for any benefice receives a statutory notice concerning ecclesiastical property in the benefice, he must —
    - (a) keep every member of the team informed of matters arising from the notice;
    - (b) afford every member of the team an opportunity to express views on it before taking any action in response to the notice; and

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<sup>6</sup> 1993 No.2

<sup>7</sup> 1992 c.5

- (c) have regard to those views before taking any such action.

In this subsection—

"ecclesiastical property" has the same meaning as in section 33(4) of the Acquisition of Land Act 1984<sup>8</sup>;

"statutory notice" means a notice given in pursuance of any statutory provision or of any instrument made under a statutory provision.

- (11) Where a pastoral scheme makes provision under section 9(11), subsections (1) to (5) have effect as if the references to the area of the benefice were references to the combined area of the benefices concerned.
- (12) Where a benefice for which a team ministry is established becomes vacant the Bishop may appoint a person holding the office of vicar in the team ministry to act as rector in the team ministry for the purposes of section 9(6), subsection (1) and paragraph 3 of Schedule 1, and while the benefice remains vacant, any person so appointed shall be treated as holding the office of rector in the team ministry for the purposes of those provisions.

## **11. Establishment of group ministries**

- (1) A pastoral scheme may provide for establishing a group ministry for a group of benefices specified in the scheme.
- (2) The following provisions apply to a group ministry —
- (a) subject to subsection (3), each of the incumbents of the benefices in the group has authority to perform in the area of every such benefice all such offices and services as may be performed by the incumbent of that benefice;
- (b) the incumbent of any such benefice must, in performing such offices and services in the area of another benefice, act in accordance with the directions of the incumbent of that other benefice;
- (c) all the incumbents must assist one another so far as to make the best possible provision for the cure of souls throughout the area of the group ministry.
- (3) A woman who is the incumbent of a benefice does not by virtue of subsection (2)(a) have authority to preside at or celebrate the Holy Communion or to pronounce the Absolution in a parish to which a resolution under section 3(1) of the Priests (Ordination of Women) Measure 1993 applies.
- (4) Where a group ministry is established, the rights and duties aforesaid of each incumbent attach to his or her office, and accordingly, so long as the group ministry continues and the benefice is included in it, —
- (a) the incumbent is not entitled to resign or withdraw from those rights and duties, except by resigning the benefice; and
- (b) on a vacancy the new incumbent shall be admitted to the benefice as an office in the group ministry, with the rights and subject to the duties of the office.
- (5) A pastoral scheme establishing a group ministry may provide for the designation or selection of the first person (who may be the existing incumbent) to hold any benefice as a benefice in the group.
- (6) Where subsection (5) does not apply, the incumbent of any benefice in the group shall be presented or collated to the benefice by the patron of it, with the approval of the

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<sup>8</sup> 1984 c.9

Bishop (in the case of presentation) given in accordance with paragraph 4 of Schedule 1.

- (7) The incumbents in a group ministry shall meet as a chapter for the purpose of discussing and reaching a common mind on all matters of general concern or special interest to the group ministry.
- (8) A pastoral scheme may provide for the chairmanship of the chapter and, in default of such provision —
  - (a) the members shall elect a chairman, normally for a term of 3 years;
  - (b) the chairman shall convene meetings of the chapter at regular intervals and shall preside when present, and
  - (c) in his absence a deputy chairman appointed by the meeting shall preside.
- (9) A pastoral scheme may include in a group ministry a benefice for which a team ministry is established, and in that case this section applies to all the vicars in the team ministry, as well as to the rector, in like manner as it applies to the incumbents of the other benefices in the group, except that directions to those incumbents in respect of their ministry in the area of the benefice for which the team ministry is established may only be given by the rector.
- (10) In this section, except subsections (4) to (6), "incumbent" includes a priest in charge.

## **12. Termination and alteration of team ministries and group ministries**

- (1) Without prejudice to the generality of the powers of revocation and amendment of pastoral schemes, a pastoral scheme may—
  - (a) terminate a team ministry by abolishing the offices of the vicars;
  - (b) alter a team ministry by abolishing one or more of the offices of the vicars or increasing the number of such offices;
  - (c) alter a team ministry by providing for the right of presentation of the rector to be transferred to a patronage board constituted by the scheme;
  - (d) alter a team ministry by providing for the vicars of the team to be chosen by the body entitled to present the rector, in accordance with paragraph 2(1) of Schedule 1;
  - (e) terminate a group ministry by abolishing the rights and duties attaching to the benefices in the group under section 11;
  - (f) alter a group ministry by reducing or increasing or changing the benefices in the group;
  - (g) provide for such supplementary, consequential or transitional provisions as the Commissioners think necessary or expedient, including in particular the provision relating to patronage required by paragraph 1(4) of Schedule 1 and provisions relating to the matters mentioned in paragraph 6 of that Schedule.
- (2) If a benefice for which a team ministry is established is dissolved by a pastoral scheme, the offices of the vicars in the team ministry (as well as the office of rector) cease to exist, without prejudice to the creation of such offices for any benefice created or altered by the scheme.

*Other provisions as to clergy and ministry*

**13. Status and duties of new benefices**

- (1) Where a pastoral scheme provides for the union of 2 or more benefices one of which is a rectory, the new benefice created by the union is a rectory.
- (2) Where a pastoral scheme provides for the dissolution of a rectory, otherwise than as a result of a union of benefices, any new benefice created in consequence of the dissolution is, if the scheme so provides, a rectory.
- (3) Subject to subsections (1) and (2), and except in the case of a benefice for which a team ministry is established, every new benefice created by a pastoral scheme is a vicarage.
- (4) The rector or vicar of a new benefice created by a pastoral scheme has the exclusive cure of souls in the area of the benefice, subject to —
  - (a) the rights of the Bishop, and
  - (b) if there is a team or group ministry established for the benefice, to the rights and duties of the other members of the team or group,and accordingly has all the rights and duties appertaining to a benefice with cure of souls, and is a corporation sole.
- (5) Where any office attaches to a benefice which is united with any other benefice or benefices by a pastoral scheme, that office attaches to the new benefice created by the union unless the scheme otherwise provides.

**14. Designation, selection and admission of certain incumbents**

- (1) A pastoral scheme providing for the creation of a new benefice may provide for —
  - (a) the designation or selection of the first incumbent of the new benefice,
  - (b) the designation or selection of the incumbent of any benefice concerned which falls vacant before the new benefice comes into being, and
  - (c) restricting rights of presentation on any such vacancy.
- (2) A pastoral scheme providing for the transfer under section 7(1)(c) of a parish from one benefice to another may, if there is a vacancy in the office of incumbent in the benefice to which the parish is transferred at the time when the transfer takes effect, provide for —
  - (a) the designation or selection of the incumbent of that benefice, and
  - (b) restricting rights of presentation on the vacancy.
- (3) A pastoral scheme providing for the holding of 2 or more benefices in plurality may provide for —
  - (a) the designation or selection of the incumbent who is to hold all the benefices concerned,
  - (b) the designation or selection of the incumbent of any such benefice falling vacant before all the said benefices come to be held in plurality, and
  - (c) restricting rights of presentation on any such vacancy.
- (4) Subsections (1), (2) and (3) do not apply to —
  - (a) the first rector of a team ministry to whom section 9(8) applies, or



- (b) the first incumbent of a benefice in a group ministry to whom section 11(5) applies.

**15. Operation of schemes dispossessing clergy**

- (1) A provision of a pastoral scheme which dissolves any benefice or abolishes or results in the abolition of any office of vicar in a team ministry may be brought into operation without the assent of the incumbent or vicar and without waiting for a vacancy in the benefice or office.
- (2) If —
  - (a) on the date of the coming into operation of any provision of a pastoral scheme for—
    - (i) the holding of benefices in plurality, or
    - (ii) the establishment of a team ministry for the area of a benefice, or
    - (iii) the establishment of a group ministry for a group of benefices, any of the benefices concerned, or the benefice concerned, is not vacant, and
  - (b) the existing incumbent is not to hold the benefice by virtue of a designation by the scheme or any appointment under the scheme or this Measure,the benefice shall be vacated on that date.
- (3) A pastoral scheme to which this subsection applies must provide that the provision is not to come into operation until —
  - (a) a date at least 6 months after the date on which the scheme is made, or
  - (b) if its operation is dependent on the happening of any event or contingency (other than a vacancy in the office concerned), until a date at least 6 months after that happens.
- (4) Subject to subsection (5), subsection (3) applies to a pastoral scheme any provision of which will or may have the effect of —
  - (a) vacating a benefice under subsection (2),
  - (b) dissolving a benefice which is not already vacant, or
  - (c) abolishing the office of a vicar in a team ministry which is not already vacant.
- (5) Subsection (3) does not apply to —
  - (a) a benefice which is dissolved, if the incumbent of that benefice is designated by the scheme as —
    - (i) the first incumbent of any benefice created or affected by the scheme, or
    - (ii) the first holder of any office of vicar in a team ministry established by the scheme,
  - (b) an office of vicar in a team ministry which is abolished, if the holder of that office is designated as mentioned in paragraph (a)(i) or (ii).
- (6) A pastoral scheme to which subsection (3) applies may provide that if, owing to a subsequent vacancy, any such provision will not have the effect mentioned in subsection (4), it shall come into operation on the happening of the event or contingency referred to in subsection (4)(b) or on the vacancy, whichever last occurs.
- (7) If, on the coming into operation of any provision referred to in subsection (4), the official residence of the incumbent or vicar concerned, being the parsonage house or

the house held on trust for use as such a residence, is not vested in the Board, the Board has a right to take proceedings to recover possession of the residence.

*Designation etc. of parish churches and places of worship*

**16. Provisions as to parish churches**

- (1) A pastoral scheme may, in relation to any parish, including a new parish to be created by the scheme or a parish the area of which is to be altered by the scheme —
  - (a) designate as the parish church or as an additional parish church, or as parish churches or additional parish churches, any church or churches in the parish;
  - (b) provide for a church in the parish which immediately before the scheme comes into operation is a parish church to cease to be a parish church;
  - (c) provide for a new church and for it to become, after its approval by the Bishop, after consultation with the advisory committee and the Commissioners as suitable to be a parish church and its consecration, the parish church, or an additional parish church, of the parish either in substitution for an existing parish church or otherwise;
  - (d) require the Bishop to notify the Commissioners of his approval of a building or church as suitable to be a parish church and of its consecration.
- (2) The designation by a pastoral scheme as a parish church of a building which immediately before the scheme comes into operation is not a parish church does not take effect unless and until it has been approved by the Bishop, after consultation with the advisory committee and the Commissioners, as suitable to be a parish church and, if necessary, the building has been consecrated.
- (3) If the area of a parish is altered by a pastoral scheme but no provision with respect to the churches in that area is made by the scheme, every church in that area has the same status on and after the date on which the scheme comes into operation as it had immediately before that date.
- (4) Where, in a parish which has no parish church, a church is approved by the Bishop, after consultation with the advisory committee and the Commissioners as suitable to be a parish church and is consecrated, it shall become the parish church of that parish.
- (5) Where by virtue of a designation made by a pastoral scheme or otherwise a parish has more than one parish church, the following provisions apply—
  - (a) the parishioners of the parish have the same rights of worship in each of the parish churches;
  - (b) marriages may be solemnized in any of the parish churches, and the Bishop may give directions under paragraph 15(4) of Schedule 1, with respect to the publication of banns and solemnization of marriages in the parish churches;
  - (c) burial rights shall not be affected by the designation, but shall be governed by paragraph 16 of Schedule 1;
  - (d) the powers, duties and liabilities of the parochial church council of the parish shall extend to each of the parish churches;

and the pastoral scheme may make such other adaptations or modifications of statutory provisions relating to parish churches or churchwardens (including this section) as the Commissioners think necessary or expedient.

- (6) It is lawful, in any church designated by a pastoral scheme as a parish church or becoming a parish church under this section, to publish banns of matrimony,

solemnize marriages and perform all other such ecclesiastical offices as may be performed in a parish church.

- (7) A pastoral scheme may provide for determining claims to sittings and other claims in respect of a church designated by a pastoral scheme as a parish church or becoming a parish church under this section.
- (8) A pastoral scheme may provide for —
  - (a) transferring to a church designated by such a scheme as a parish church or becoming a parish church under this section register books or records from any other church ceasing to be a parish church or otherwise affected by or in pursuance of that or any other pastoral scheme, or
  - (b) those books or records to be dealt with as the Bishop may direct under section 25 of the Church Records Measure (Isle of Man) 2000<sup>9</sup>.

In this subsection "register books" and "records" have the same meanings as in that Measure.

## **17. Places of worship**

- (1) Where a parish has no church, the Bishop shall make provision for public worship according to the rites and ceremonies of the Church of England by licensing one or more buildings or parts of buildings for public worship.
- (2) The Bishop may designate as a parish centre of worship —
  - (a) any church in a parish, other than a parish church, or
  - (b) any building or part of a building licensed for public worship in a parish.
- (3) Subject to subsections (4) and (5), a church, building or part of a building designated under subsection (2) shall be treated, while the designation is in force, to be a parish church for the purposes of —
  - (a) the Marriage Act 1984<sup>10</sup>,
  - (b) paragraph 15 of Schedule 1, and
  - (c) any other statutory provision (including this Measure) or rule of law requiring or authorising any service or ceremony to be held or notices to be affixed or other thing done in or at the parish church or a parish church.
- (4) A building or part of a building designated under subsection (2) shall not by virtue only of the designation be subject to the faculty jurisdiction, but without prejudice to the power of the Bishop under section 6 of the Faculty Jurisdiction Measure 1964<sup>11</sup> to direct that it shall be so subject.
- (5) A designation under subsection (2) may be revoked by the Bishop, but without prejudice to the continuation in force of any licence under subsection (1), if the Bishop thinks fit.
- (6) Any such designation or revocation shall be under seal and shall be registered in the diocesan registry, and the diocesan registrar shall give public notice of the designation or revocation in one or more local newspapers.

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<sup>9</sup> SD 533/00

<sup>10</sup> 1984 c.13

<sup>11</sup> 1964 No.5

*Closure of churches for regular public worship*

**18. Closure of churches for regular public worship**

- (1) A pastoral scheme may make a declaration of closure for regular public worship in respect of—
  - (a) a church which is not required as a parish church or chapel of ease or will cease to be so required as a result of any provision of the scheme; or
  - (b) any part of a church (being a parish church or chapel of ease) which is no longer required for use as a part of the church or will cease to be so required as a result of any provision of the scheme.
- (2) Where a pastoral scheme makes such a declaration, provision may be made in accordance with Schedule 3, either by the scheme in the circumstances specified in Part 1 of that Schedule or by a disposal scheme under Part 2 of that Schedule, for—
  - (a) the use, the care and maintenance, the vesting in the Board or the demolition of the church or part of the church to which the declaration relates (the "building closed for regular public worship"), and
  - (b) for dealing with a churchyard or other land annexed or belonging to the church.
- (2) A declaration of closure for regular public worship may be made in respect of a parish church even though the parish will have no parish church when the declaration takes effect, and the status of the parish shall not be affected by the lack of a parish church.
- (3) As from the date when a declaration of closure for regular public worship takes effect in respect of the whole of a church, the church is closed for public worship except as may be provided under Schedule 3.
- (4) Except in the cases specified in paragraphs 1 and 2 of Schedule 3, and without prejudice to paragraph 9 (restoration) of that Schedule, no further provision beyond the declaration of closure for regular public worship itself shall be made by a pastoral scheme with respect to a building closed for regular public worship.
- (5) Any such provision shall be made by a disposal scheme under Part 2 of Schedule 3.

**19. Churches not to be closed or disposed of otherwise than under this Measure**

- (1) It is not lawful to make any order or give any direction for closing a church on the ground that it is no longer required for use as a church, and the only procedure for closing a church on that ground shall be by way of a declaration of closure for regular public worship.
- (2) It is not lawful to sell, lease or otherwise dispose of—
  - (a) any church or part of a church,
  - (b) the site or part of the site of any church, or
  - (c) any consecrated land belonging or annexed to a church,except in pursuance of powers under section 20 or Schedule 3.
- (3) Subsections (1) and (2) do not—
  - (a) prevent the grant of a faculty authorising a suitable use of part of a church or the grant of any faculty in respect of any consecrated land belonging or annexed to a church; or
  - (b) affect any powers under any Act of Tynwald (except as provided by paragraph 8 of Schedule 2 to the Church Act 1992);

- (c) affect the power of the Bishop under section 22 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991<sup>12</sup> to make an order directing that a building or land shall not be subject to the legal effects of consecration.

*Churchyards and burial grounds*

**20. Use of certain churchyards and burial grounds**

- (1) Subject to the following provisions of this section, a pastoral scheme may provide for —
  - (a) the appropriation of the whole or any part of a churchyard or other land annexed or belonging to a church to such use or uses as may be specified or generally described in the scheme, and
  - (b) the disposal of any such property for any such use or uses or without limitation of use.
- (2) Subsection (1) does not apply to a churchyard or other land annexed or belonging to a church to which a declaration of closure for regular public worship relates unless the scheme by which provision was made for the use, the care and maintenance, the vesting in the Board or the demolition of the church contained no provision for dealing with the land which is to be the subject of the proposed scheme.
- (3) In the case of a churchyard or other land annexed or belonging to a church or a burial ground adjacent to a church, the pastoral scheme must make such provision as appears to the Bishop and the Commissioners to be —
  - (a) desirable for safeguarding the use and amenities of the church, or
  - (b) necessary for preserving a right of access to any grave in that land or burial ground.
- (4) Any scheme providing for the matters referred to in this section may also make provision for —
  - (a) the vesting of the property, and
  - (b) applying in relation to it, with such modifications as may be specified in the scheme, any of the provisions of Schedule 3 relating to —
    - (i) the appropriation, disposal and vesting of property, rights of way and other easements,
    - (ii) the removal of the legal effects of consecration, and
    - (iii) the imposing of covenants,and where the scheme makes any such provision, section 21 and Schedule 4 apply to the property.
- (5) In this section "burial ground" means any land set apart and consecrated for the purpose of burials, whether or not burials have taken place in the land.

**21. Disposal of human remains**

- (1) Where any human remains are believed to be buried in or beneath a building closed for regular public worship or in any land to which a disposal scheme applies, the body or person in whom the property is vested or to whom it is leased or licensed shall not, subject to this section, demolish, sell, lease or otherwise dispose of it or any part of it, or use it or any part of it, or carry out any development of it or any part of it, unless—

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<sup>12</sup> 1991 No.1

- (a) as respects the human remains, either —
  - (i) the Department of Environment, Food and Agriculture has made an order under subsection (4) in relation to such demolition, use or development, or
  - (ii) the remains have been removed and reinterred or cremated in accordance with Schedule 4; and
- (b) any tombstones, monuments or memorials commemorating the deceased persons have been disposed of in accordance with those provisions,  
and (in either case) the other requirements of that Schedule have been complied with.
- (2) The requirements of subsection (1) and Schedule 4 do not apply—
  - (a) to a building closed for regular public worship the whole of which is to be used, without any structural alteration, —
    - (i) as a place of religious worship for a university, college, school or other institution,
    - (ii) as a private chapel or monument, or for religious worship by a Church other than the Church of England,  
  
so long as the whole of it continues to be so used without any structural alteration involving the disturbance of human remains or the removal of any tombstones, monuments or memorials commemorating deceased persons;
  - (b) to any land which remains annexed or belonging to a building closed for regular public worship used as mentioned in paragraph (a);
  - (c) to any land which is to be used as part of a churchyard or burial ground and is vested under paragraph 10 of Schedule 3 in the person in whom the churchyard or burial ground is vested;
  - (d) to any land which is to be used as part of a burial ground and has been conveyed to a burial authority constituted by or under an enactment.
- (3) Subsection (4) applies where it appears to the Department of Environment, Food and Agriculture that —
  - (a) the demolition of a building closed for regular public worship or part of it, or
  - (b) the intended use or development of any property to which a disposal scheme applies or any part of such property,  
  
will not involve the disturbance of human remains.
- (4) That Department may, after consultation with the Bishop and the Commonwealth War Graves Commission, by order provide for dispensing with the requirements (so far as they concern human remains) of subsection (1) and Schedule 4 in relation to —
  - (a) the demolition of the building or part of it, or
  - (b) such use or development of the property or part, as may be prescribed by or under the order, subject to such conditions, restrictions, and requirements as may be so prescribed, and
  - (c) in relation to any sale, lease or other disposal of the property for the purpose of such use or development.
- (5) Any order under sub-paragraph (4) may be amended or revoked by a subsequent order made in like manner and subject to the like conditions, and, if at any time the requirements of subsection (1) and Schedule 4 are complied with in respect of the property, the order shall cease to have effect.

- (6) Where, by virtue of any such order, human remains are not removed and reinterred or cremated, the requirements of subsection (1) and Schedule 4, so far as they relate to the disposal of tombstones, monuments and memorials, shall nonetheless apply.
- (7) Where there is situated in any building or part of a building closed for regular public worship or any land to which a disposal scheme applies any monument or memorial commemorating a deceased person whose remains are not buried in the building or part of it or land, the body or person in whom the building or part or land is vested or to whom it is leased or licensed shall not demolish, sell, lease or otherwise dispose of it or use it for any use or carry out any development of it, unless —
  - (a) the monument or memorial has been disposed of in such manner as the Bishop after consultation with the advisory committee has directed, or
  - (b) the Bishop has after such consultation dispensed with this requirement.
- (8) No faculty shall be required for anything done in pursuance of this section or Schedule 4.
- (9) In this section any reference to a disposal scheme includes a reference to the provisions of a pastoral scheme providing for the matters referred to in section 20 or paragraph 1 or 2 of Schedule 3.

*Parsonage houses*

**22. Parsonage houses**

- (1) A pastoral scheme may provide for any of the following matters—
  - (a) the designation of any house belonging to a benefice as the place of residence of —
    - (i) the incumbent of any benefice created or affected by the scheme, or
    - (ii) the incumbent of any benefices to be held in plurality, by or by virtue of the scheme;
  - (b) the designation of any house as the place of residence of any vicar in a team ministry established for the area of any benefice by or by virtue of the scheme;
  - (c) the transfer of a parsonage house or part of a parsonage house —
    - (i) in the case of a benefice the incumbent of which is not subject to Common Tenure, to the incumbent as his official residence, or a site for it, and
    - (ii) in the case of a benefice the incumbent of which is subject to Common Tenure or which is vacant, to the Board;
  - (d) the transfer of a parsonage house, part of a parsonage house or any parsonage land to the Board to be held by the Board for disposal in accordance with paragraph 12 of Schedule 1 or for use for parochial or diocesan purposes.
- (2) The power under subsection (1)(a) or (b) to designate a house as the place of residence of an incumbent or a vicar in a team ministry is without prejudice to —
  - (a) the subsequent exercise of any power to dispose of the house, or
  - (b) the subsequent exercise by the Bishop of any power he may have to give directions as to the place where the incumbent or vicar is to reside.

*Patronage*

**23. Patronage**

- (1) A pastoral scheme may, with the consent of —
  - (a) the patron or patrons concerned, and
  - (b) the person to whom the rights of patronage are to be transferred,provide for the exchange or transfer of rights of patronage of any benefice or church, whether or not that benefice or church is otherwise affected by the scheme.
- (2) A pastoral scheme creating any new benefice may provide for vesting the patronage of the benefice in a patron or patrons and, where necessary, for determining the manner in which the rights of patronage are to be exercised.
- (3) Without prejudice to the generality of subsections (1) and (2), a pastoral scheme (whether it relates only to an existing benefice or provides for the creation of a new benefice) may, with the consent of the patron or patrons of any benefice affected by the scheme, provide for the transfer of existing rights of patronage to, or for the vesting of new rights of patronage in, a patronage board constituted by the scheme.
- (4) A pastoral scheme providing for the holding of 2 or more benefices in plurality may provide for the exercise of the rights of patronage of those benefices, including their exercise on a renewal of the provision for plurality.
- (5) Where any benefice is dissolved by a pastoral scheme, or a chapel of ease becomes a parish church by virtue of a pastoral scheme, the rights of patronage of the benefice and any rights of patronage of the chapel of ease shall cease to exist.
- (6) In the exercise of the powers conferred by this section and paragraph 5 of Schedule 1, regard shall be had to the interests of persons whose rights of patronage cease to exist by virtue of a pastoral scheme and to the interests of patrons of benefices to be held in plurality, but it shall not be necessary for the scheme to provide, in cases where there are pastoral or practical objections, for conferring new patronage rights on all or any of those persons or sharing the exercise of the patronage rights of the benefices to be held in plurality among the patrons of those benefices or all of them.
- (7) Any provision with respect to rights of patronage made by or by virtue of this section shall have effect subject to any provisions made by virtue of section 14 with respect to the incumbents and vacancies mentioned in it.
- (8) A pastoral scheme providing for the vesting or exercise of rights of patronage under subsection (2) or (5) may also, in appropriate cases, provide for applying to those rights any trusts formerly applicable to rights extinguished or altered by or by virtue of the scheme.
- (9) Nothing in the provisions of this section affects the provisions of sections 9(8) and 11(5) and paragraphs 1, 4 and 5 of Schedule 1, and accordingly any rights of patronage exchanged or transferred or created by or under this section shall, on the establishment of a team or group ministry for the benefices concerned, have effect subject to those provisions.

*Endowments, income etc.*

**24. Endowments, income, etc.**

- (1) A pastoral scheme may provide, on such terms and conditions as may be specified, that the whole of the income of the endowments of a benefice, or a specified annual



amount of it, or the excess over a specified amount of it, shall be paid to the income account of the diocesan stipends fund.

For the purposes of this subsection, 2 or more benefices which are held in plurality or are to be held in plurality by virtue of the scheme may be treated as if —

- (a) they constituted one benefice, and
  - (b) the aggregate of the income of their endowments were the income of the endowments of that one benefice.
- (2) The powers conferred by subsection (1) shall only be exercised with respect to the income of the endowments of any benefice (not being a benefice which ceases to exist by virtue of the scheme) in the following cases—
- (a) where the provision is to take effect during a vacancy or on the occurrence of a vacancy in the benefice;
  - (b) where the incumbent of the benefice consents; or
  - (c) where the benefice is to be held in plurality and the provision will only operate during the continuance of the plurality.
- (3) Any provision made under subsection (1) may be revoked, or may be varied so as to reduce the amount of the income payable under that subsection, by the Commissioners with the consent of the Bishop and the Board.
- (4) Subsection (5) applies where —
- (a) a benefice is dissolved by a pastoral scheme in consequence of a union of benefices, and
  - (b) the Board holds —
    - (i) money for expenditure on capital purposes in connection with a parsonage house for the benefice or
    - (ii) money arising from or in connection with the disposal of a parsonage house of the benefice.
- (5) Paragraph 1 of Schedule 1 to the Ecclesiastical Offices (Terms of Service) Measure 2009<sup>13</sup> applies to all such money as it applies to money arising from the sale of a house of residence under that Schedule, with the modification that references to the benefice for which the money was held or to which the property belonged shall be construed as references to the new benefice created by the union.
- (6) Despite anything in that Schedule, a pastoral scheme may provide that any money arising from any sale or exchange of any part of the property of a benefice specified in the scheme, or so much of that money as may be so specified, shall be—
- (a) held by the Board for the benefit of any other benefice so specified; or
  - (b) applied towards the payment of stipends of the clergy of the diocese; or
  - (c) paid into the diocesan pastoral account; or
  - (d) applied towards the provision, restoration, improvement or repair of —
    - (i) a church,
    - (ii) a place of worship within the meaning of paragraph 1 of Schedule 3,
    - (iii) a parsonage house, or

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<sup>13</sup> 2009 No.1

- (iv) a house for a vicar in a team ministry, assistant curate or other person holding office under Common Tenure.

*Supplementary*

**25. Supplementary provisions of pastoral schemes**

- (1) A pastoral scheme may contain such supplementary or consequential provisions as the Commissioners, with the agreement of the Bishop, think necessary or expedient for giving effect to the purposes of the scheme.
- (2) A pastoral scheme shall, where the Commissioners consider it appropriate, have annexed to it a map or plan showing the changes made by the scheme.
- (3) A pastoral scheme may provide that the scheme, or any provisions of it, comes into operation on a specified date, or on the happening of a specified event or contingency, and different dates, events or contingencies may be specified for different provisions.

**26. Amendment and revocation of pastoral schemes**

- (1) A pastoral scheme may be amended or revoked by a subsequent pastoral scheme.
- (2) An amending pastoral scheme may provide for any matters for which provision could have been made by the scheme to be amended.
- (3) A pastoral scheme, or any provision of it, may be revoked or amended under this section before it comes into operation.

**27. Further provisions as to contents and effect of pastoral schemes**

Schedule 1 shall have effect, but without prejudice to the powers conferred by section 25(1).

**28. Procedure for making pastoral schemes**

Schedule 2 shall have effect with respect to the procedure for making pastoral schemes.

PART 3

MISCELLANEOUS AND GENERAL

*Vacancies in benefices*

**29. Suspension of presentation for up to 5 years**

- (1) Where a benefice is vacant or is shortly to become vacant, the Bishop may, subject to the following provisions of this Measure, with the consent of the Commissioners, and after consultation with—
  - (a) the patron of the benefice, and
  - (b) the parochial church council of the parish or each of the parishes concerned,give notice that during such period not exceeding 5 years as may be specified in the notice (the "suspension period"), the patron shall not exercise his right of presentation without the consent of the Commissioners and (if he is not the registered patron) of the Bishop; and thereupon that right shall only be exercised in accordance with the notice during the suspension period.
- (2) When consulting any person or body in accordance with subsection (1) the Bishop shall inform him or her or it of the reasons why he is considering whether he should exercise the power conferred by this subsection.
- (3) The power conferred by subsection (1) may be exercised in relation to a benefice at any time within 3 months before the benefice is due to become vacant or at any time during the vacancy.
- (4) Except where any consultation required by subsection (1) takes place at a meeting between the Bishop or his representative and the person or body to be consulted or his or its representative, that person must be advised that he may, within 28 days after receiving a request from the Bishop for his views about the giving of the notice under that subsection, request a meeting with the Bishop or his representative.
- (5) Where such a request is made, the Bishop shall convene a meeting which all the persons whom he is required by that subsection to consult shall be invited to attend, either in person or by representatives, for the purposes of enabling those present to consult with the Bishop or his representative about the giving of the notice.
- (6) The suspension period shall come to an end before the date on which it would otherwise expire —
  - (a) if notice is given by the Bishop that the necessary consent or consents have been given to the exercise of the patron's right of presentation;
  - (b) if notice is given by the Bishop with the consent of the Commissioners, terminating the suspension period; or
  - (c) if a pastoral scheme provides for the holding of the benefice in plurality with another benefice or other benefices, or
  - (d) if a pastoral scheme otherwise affecting the benefice expressly provides for the termination of the period.
- (7) The termination shall take effect —
  - (a) in the cases mentioned in subsection (6)(a) and (b), on such day, not being less than 14 days after the date of the notice, as may be specified in the notice, and
  - (b) in the cases mentioned in subsection (6)(c) and (d), when the relevant provisions of the pastoral scheme come into operation.

- (8) The Bishop may, before the expiration of a suspension period, by a further notice given with the same consent and after the same consultation as were required for the original notice given under subsection (1), extend the period for a further period not exceeding 5 years; and that power may be exercised from time to time before the expiration of any extension of a suspension period.
- (9) After the expiration of a suspension period, the Bishop may, by a further notice given with the same consent and after the same consultation as were required for the original notice given under subsection (1), declare a new suspension period in relation to the vacancy.
- (10) If the Bishop gives a notice under subsection (9), subsections (1), (2), and (4) to (8) apply in relation to any notice given and any suspension period declared under subsection (9) as they apply to a notice given and a suspension period declared under subsection (1).
- (11) A notice given by the Bishop under this section must be given to—
  - (a) the diocesan registrar,
  - (b) the Commissioners,
  - (c) the patron of the benefice, unless the only patron is the Bishop,
  - (d) the parochial church council of the parish or each of the parishes concerned, and
  - (e) the sequestrators;and a copy of the notice shall be filed in the diocesan registry.
- (12) The diocesan registrar must, not earlier than 6 months and not later than 3 months before any suspension period declared under this section is due to expire, other than a suspension period which comes to an end before the date on which it would otherwise expire under subsection (7), give notice to the Bishop and to Commissioners of the date on which the suspension period is due to expire.
- (13) The secretary of the parochial church council to which any such notice is given must forthwith cause a copy of it to be affixed at or near to the door of a parish church or, if there is no parish church, of the principal place of worship in the parish.

**30. Sequestration of profits, appointment of priest in charge and management of property**

- (1) Where the Bishop has declared a suspension period in respect of any benefice under section 29, he shall during that period sequester the profits of the benefice.
- (2) The sequestrators shall, subject to and in accordance with the directions of the Bishop, make provision for the performance during the suspension period of the ecclesiastical duties of the benefice, and before giving any such directions the Bishop shall consult the parochial church council of the parish or each of the parishes concerned and, so far as is reasonably practicable, the patron of the benefice.
- (3) Where the Bishop proposes to appoint a priest in charge for any benefice to which a suspension period applies, he shall before making the appointment consult the parochial church council of the parish or each of the parishes concerned and, so far as is reasonably practicable, the patron of the benefice.
- (4) Where the Bishop appoints a priest in charge for any benefice to which a suspension period applies, the Bishop may require the priest to reside in the parsonage house of the benefice.
- (5) Schedule 5 shall have effect with respect to the management of the benefice property and the application of the profits of the property during any suspension period.

**31. Restrictions on presentation pending the making of pastoral schemes**

- (1) Where —
  - (a) any proposals are approved under section 3(1),
  - (b) the proposals contain recommendations for any of the matters specified in sections 7 to 12, and
  - (c) any benefice which would be affected if the recommendations were implemented —
    - (i) is vacant on the date on which the patron of it is sent a copy of the proposals under section 3(3), or
    - (ii) becomes vacant thereafter,the patron is not entitled after that date or after the occurrence of the vacancy, as the case may be, to exercise his right of presentation to the benefice without the consent of the Commissioners and (if he is not the patron) of the Bishop, until the first of the events mentioned in subsection (5) occurs.
- (2) Where the Bishop has given directions to the Commissioners under section 5(3) to consider in relation to any benefices any of the matters specified in sections 7 to 12, he may, upon a vacancy or impending vacancy in any of those benefices, notify—
  - (a) the patron, unless the only patron is the Bishop, and
  - (b) the parochial church council,that those matters are being considered, and thereupon the patron shall not be entitled to exercise his right of presentation to that benefice without such consent or consents as are specified in subsection (1); and section 7 of the Patronage (Benefices) Measure 1986 applies subject to the modifications made by section 32.
- (3) Subject to subsection (4), a restriction imposed by subsection (2) shall cease to operate at the expiration of one year from the date of the notice.
- (4) If within that period proposals are approved under paragraph 3(1) of Schedule 2 containing recommendations for any of the matters specified in subsection (1) or (3) which would affect the benefice concerned, the restriction shall continue until the first of the events mentioned in subsection (5) occurs.
- (5) The events referred to in subsections (1) and (4) are —
  - (a) the relevant recommendations are implemented by a pastoral scheme and come into operation, in which case the right of presentation shall be subject to the provisions of the scheme;
  - (b) the proposals are withdrawn or the draft scheme prepared in pursuance of them is withdrawn, or the scheme made in pursuance of them is withdrawn or quashed;
  - (c) the relevant recommendations are omitted from the proposals, draft scheme or scheme; or
  - (d) the expiry of the period of 3 years from the date referred to in subsection (1)(c)(i) or subsection (3), as the case may be.
- (6) Where —
  - (a) an application is made under paragraph 7(2) of Schedule 2 with respect to a scheme which implements the relevant recommendations, and
  - (b) the application has not been determined or withdrawn within the period referred to in paragraph (d) of subsection (5),

that paragraph shall have effect as if that period had been extended to the date on which the application is determined or withdrawn.

- (7) The fact that restrictions are in force under this section with respect to any benefice shall not be taken as preventing the Bishop from exercising his powers under sections 29 and 30 with respect to the benefice, and, if he does so, those sections and Schedule 5 shall apply to the benefice instead of this section.

### **32. Modification of 1986 Measure where presentation is suspended or restricted**

- (1) The following provisions of this section apply where, in respect of any benefice —
  - (a) the Bishop declares a suspension period, or
  - (b) any restriction imposed by or under any provision of section 14 or 31 comes into force.
- (2) Except as provided in this section, no notice under section 7 of the Patronage (Benefices) Measure 1986 of a vacancy or impending vacancy in that benefice shall be given during the suspension period or while the restriction is in force, as the case may be.
- (3) Any such notice relating to that benefice given before the suspension period began or the restriction came into force, as the case may be, shall be treated as having been revoked and any act done under that Measure consequent upon that notice shall be of no effect.
- (4) That benefice shall be treated for the purposes of that Measure as becoming vacant immediately after the day on which the suspension period comes to an end or the restriction ceases to be in force, as the case may be, but if a further suspension period is declared, the benefice shall no longer be treated as vacant.
- (5) As soon as practicable after he becomes aware of the vacancy, the Bishop shall give notice of that fact to the diocesan registrar, and section 7(4) of that Measure shall apply as it applies to a notice under section 7(1) or (2), except that —
  - (a) if the suspension period will come to an end as a result of a notice given by the Bishop under section 29(6), the notice referred to in this section may be given by the Bishop at the same time as the notice under section 29(6); and
  - (b) in any other case the notice may be given not more than 14 days before the suspension period will end or the restriction will cease to be in force, as the case may be.

### **33. Suspension of new rights of patronage**

Where —

- (a) any proposals approved under section 3(1) contain recommendations for the creation of a new benefice for a new parish, and
- (b) any church in the area which is to form the new parish is consecrated after the proposals are so approved but before any of the events mentioned in section 31(5) have occurred in relation to those recommendations,

no person shall become the patron of that church by virtue of any rule of law or any provision of or instrument under any Act or Measure other than this Measure during the period between the approval of the recommendations and such one of those events as first occurs.

**34. Trusteeship of certain charities during vacancy or suspension**

- (1) Where —
  - (a) any property of a charity established for ecclesiastical purposes of the Church of England is vested in or under the management or control of the incumbent of a benefice (with or without other persons) or a corporation of which the incumbent of a benefice is a member, and
  - (b) the benefice becomes vacant or the Bishop declares a suspension period in respect of the benefice,during the period of the vacancy or the suspension period, as the case may be, the trusts of the charity or the constitution of the corporation has effect with the substitution for the incumbent of that benefice of the priest in charge of that benefice.
- (2) Subsection (1) does not apply to any fund or property for which provision is made under paragraph 17 of Schedule 3.

*Financial provisions*

**35. Pastoral account**

- (1) The Board shall hold an account to be called the diocesan pastoral account and shall transfer to the account—
  - (a) any money which is payable to the account under any provisions of this Measure or any scheme made under it;
  - (b) such other money as the Board determine should be credited to the account, not being money for the application or disposal of which provision is made by or under any other statutory provision.
- (2) The Board must —
  - (a) as soon as practicable after the end of each financial year of the Board prepare an account of the money paid into or out of the diocesan pastoral account during that year;
  - (b) include in it a statement of the amount by which the diocesan pastoral account was in debit or credit, as the case may be, at the beginning and end of that year; and
  - (c) lay a copy of the account before the Diocesan Synod.

**36. Payment of expenses from diocesan pastoral account and application of money**

- (1) Expenses incurred by or on behalf of, or under the authority or direction of, the Bishop or the Commissioners for the purposes of this Measure or any scheme made must be paid out of the money standing to the credit of the diocesan pastoral account so far as that money suffices, but any such expenses may not include the salaries or wages of persons in the regular employment of the Bishop, any board or committee of the diocese, or the Commissioners, or any part of any such salaries or wages.
- (2) The Board shall be entitled to be repaid out of the diocesan pastoral account any money expended by the Board on any property vested by or under this Measure in the Board for the purpose of furthering the disposal or use of the property.
- (3) Where the Board is satisfied that any money standing to the credit of the diocesan pastoral account is not required or likely to be required for meeting the expenses or expenditure referred to in this section, it may—

- (a) apply that money by way of grant or loan to the provision, restoration, improvement or repair of churches and parsonage houses in the diocese, including the repair of any building closed for regular public worship vested in the Board pending the coming into operation of arrangements under a disposal scheme, or to other purposes of the diocese or any benefice or parish in the diocese;
- (b) apply that money towards the payment of stipends of the clergy of the diocese; or
- (c) transfer that money to one or more other accounts or funds held by the Board, or apply or transfer it partly to such other accounts or funds and partly as provided in paragraphs (a) and (b).

### **37. Compensation of clergy**

- (1) The provisions of Schedule 6 have effect for the purpose of —
  - (a) conferring rights to compensation on incumbents of benefices and the holders of any other ecclesiastical offices who are subject to Common Tenure whose benefices or offices are dissolved, abolished, vacated or resigned in the circumstances specified in that Schedule, and
  - (b) determining claims to such compensation;and for other matters relating such rights and claims.
- (2) Subsection (1) and Schedule 6 have effect in relation to a deacon as they have effect in relation to a vicar in a team ministry.

### *General*

### **38. Vesting of property**

Where any land or other property becomes vested by or by virtue of this Measure in the Board or any other person, alone or jointly with any other person, it shall so vest —

- (a) without any conveyance or other assurance, and
- (b) unless otherwise provided by or under this Measure, free of any trust or burial rights.

### **39. Power of Commissioners to determine boundaries**

- (1) Where by virtue of this Measure or any scheme made under it any land is vested in the Board, Manx National Heritage or an incumbent of a benefice (with or without the churchwardens of a parish), the Commissioners may determine the boundaries of the land by an instrument under their seal.
- (2) The determination shall for all purposes be binding on any of the bodies and any incumbent or incumbent and churchwardens, whether as the body or person in whom the land is vested or the body or person from whom it is transferred, but shall bind no other person.
- (3) Any such instrument shall be registered in the General Registry under the Registration of Deeds Act 1961<sup>14</sup>.

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<sup>14</sup> XIX p.273



- (4) A copy of any such instrument purporting to be certified by an officer of the Commissioners as a true copy shall be sufficient evidence in any proceedings of the contents of the instrument.

**40. Application to benefices in the patronage of the Crown**

- (1) This section applies to any benefice the patronage or any share in the patronage of which is vested in or exercisable by Her Majesty.
- (2) Nothing in this Measure or in any scheme made under this Measure shall apply in relation to a benefice to which this section applies without the consent of Her Majesty, which may be given either generally or in respect of a particular benefice.
- (3) Any notice required by this Measure to be given to the patron of a benefice may, in the case of a benefice to which this section applies, be given to the Chief Secretary.
- (4) Without prejudice to subsection (3), any of the following may, in the case of a benefice to which this section applies, be given or done by or to the Governor —
  - (a) any consent under subsection (2);
  - (b) any other consent, approval or other thing required by any provision of this Measure or any scheme made under it to be given or done by or to the patron of a benefice.

**41. Notices and other documents**

- (1) All notices, consents, directions, determinations and requests required or authorised by this Measure shall be in writing.
- (2) Where any document is required to be sent to the Commissioners it shall be addressed to the secretary of the Commissioners.
- (3) If any question arises as to the person on or to whom, or the manner in which, any notice or other document is to be served, sent or given, the Commissioners may decide the question and their decision shall be conclusive.

**42. Churches etc. affected by Acts of Tynwald**

- (1) Subject to subsection (4), the provisions of this Measure, and in particular those relating to churches closed for regular public worship, shall apply to—
  - (a) churches affected by any Act of Tynwald passed before 1st January 1991;
  - (b) land comprising the sites of any such churches or annexed or belonging to any such churches; and
  - (c) any burial ground which is affected by any such Act and is vested in the incumbent of a benefice or is subject to the jurisdiction of the Bishop;and a scheme made under this Measure may amend or revoke any provision of such an Act, if it appears to the Commissioners that the provision of the Act is inconsistent with or rendered unnecessary by the provisions of the scheme or the provisions of this Measure applicable to it.
- (3) If it appears to the Commissioners that a proposed pastoral scheme or disposal scheme will affect the rights (other than the patronage rights) of any person under an Act of Tynwald passed before 1st January 1991 —
  - (a) in the case of a pastoral scheme, they must serve a copy of the draft scheme on that person together with such a notice as is mentioned in paragraph 4(1) of Schedule 2, and he or she shall thereafter be treated as an interested party in relation to that scheme;

- (b) in the case of a disposal scheme, they must serve a copy of the draft scheme on that person under paragraph 5(4) of Schedule 3.
- (4) A scheme containing any provision made by virtue of this section shall be laid before Tynwald as soon as may be after it is made.

**43. Provisions where there is no parochial church council, incumbent, etc.**

- (1) Where at the material time a parish has no parochial church council, the provisions of this Measure with respect to notices, consents and other things required or authorised to be given or done by or to such councils shall have effect —
  - (a) if the parish has churchwardens, as if the churchwardens were the parochial church council;
  - (b) if there are no churchwardens, shall have no effect with respect to that parish.
- (2) Where at the material time a benefice has no incumbent, or the office of vicar in a team ministry is vacant, the provisions of this Measure with respect to notices, consents and other things required or authorised to be given or done by or to incumbents or vicars in team ministries shall have no effect with respect to that benefice or office.
- (3) For the purposes of this section a certificate signed by the Bishop stating that at any time specified in it a particular benefice or office of vicar in a team ministry, had no incumbent or vicar, as the case may be, or a particular parish had no parochial church council or no churchwardens, shall be conclusive.

**44. Pluralities not to be authorised except under this Measure**

- (1) Subject to the provisions of this Measure, no person shall hold benefices in plurality except in pursuance of a pastoral scheme.
- (2) If —
  - (a) any person accepts any benefice, and
  - (b) the acceptance would, but for this subsection, result in him or her holding offices in contravention of subsection (1),he or she shall, on his or her admission to the benefice, vacate the office or offices previously held by him or her.
- (3) In this section "benefice" includes the office of a vicar in a team ministry.

**45. Saving for planning legislation**

Even though the development of any land or the demolition of any building is or may be authorised or regulated by or under this Measure, the provisions of the enactments relating to town and country planning, and any restrictions or powers imposed or conferred by them in relation to land and buildings, shall apply to, and may be exercised in relation to, any such development or demolition.

*Mission partnerships, deaneries and chapelries*

**46. Mission partnerships and deaneries**

- (1) The Commissioners shall make one or more schemes —
  - (a) establishing districts, each comprising 2 or more parishes, to be known as "mission partnerships";
  - (b) constituting a mission council for each such district;

- (c) making provision with respect to the officers, meetings and proceedings of mission councils; and
  - (d) making provision for the exercise in each such district of the functions of a rural dean.
- (2) A scheme under subsection (1) shall not have effect unless it is approved by the Diocesan Synod.
- (3) A mission council shall consist of —
- (a) every clerk in Holy Orders beneficed or licensed to officiate in the district of the council;
  - (b) such, if any, of the readers who are licensed to that district, and whose names are on the roll of the parish, as the annual parochial church meeting of the parish may determine;
  - (c) such number of parochial representatives of the laity as are specified in the scheme by which the district is established.
- (4) Subject to subsection (5), representatives of the laity on a mission council shall —
- (a) be elected to the council in accordance with the Church Representation Rules; and
  - (b) hold office from the conclusion of the annual meeting at which they were elected until the conclusion of the annual meeting next following their election.
- (5) A casual vacancy in the representatives of the laity elected to a mission council shall be filled in like manner, and for the like term, as a casual vacancy in the representatives of the laity elected to a parochial church council.
- (6) The functions of a mission council shall be —
- (a) to promote in its district the mission of the Church;
  - (b) to bring together the views of the parishes in the district on common problems;
  - (c) to discuss and formulate common policies on those problems; and
  - (d) to promote community and co-operation among those parishes.
- (7) The office of rural dean is abolished, and the rural deaneries shall cease to exist.

#### **47. Chapelries**

- (1) Every chapelry shall cease to exist, and the parochial church council of any chapelry shall be dissolved.
- (2) An order under section 2 bringing subsection (1) into operation —
- (a) may bring that subsection into operation on different days in relation to different chapelries; and
  - (b) may make such transitional provisions as appear to the Bishop to be necessary for the purposes of that subsection, including provisions —
    - (i) for the vesting of any property, rights and liabilities of the parochial church council of any chapelry; and
    - (ii) further modifying the Church Representation Rules.
- (3) In this section "chapelry" means a separate electoral district assigned to a chapel under the Church Representation Rules.

*Supplemental*

**48. Transitional provisions, amendments and repeals**

- (1) The transitional provisions in Schedule 7 have effect.
- (2) The enactments specified in Schedule 8 are amended in accordance with that Schedule.
- (3) The Church Representation Rules are further modified in accordance with Schedule 9.
- (4) Subject to the provisions of Schedule 8, the enactments specified in Schedule 10 are repealed to the extent specified in column 2 of that Schedule.
- (5) The following provisions of the Mission and Pastoral Measure 2011<sup>15</sup> shall extend to the Island —
  - (a) section 111 (with the omission of the words "Subject to the provisions of Schedule 8,"), so far as it relates to provisions which extend to the Island,
  - (b) Schedule 9 (repeals), so far as aforesaid (but not so as to affect section 61 of the Dioceses, Pastoral and Mission Measure 2007<sup>16</sup>), and
  - (c) section 112(4) (short title).

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<sup>15</sup> 2011 No.3

<sup>16</sup> 2007 No.1

SCHEDULE 1

FURTHER PROVISIONS AS TO CONTENT AND EFFECT OF PASTORAL SCHEMES

**1. Team ministries: patronage**

- (1) A pastoral scheme establishing a team ministry must provide for the presentation of the rector of the team ministry, other than the first rector if designated by the scheme, by a patronage board constituted by the scheme.
- (2) Sub-paragraph (1) shall not apply in relation to a benefice of which the Bishop is the sole patron, but in that case —
  - (a) the scheme may provide as mentioned in sub-paragraph (1), and
  - (b) if the scheme does not so provide, the Bishop shall choose the rector, other than the first rector if designated by the scheme, and shall collate him to the benefice.
- (3) Any enactment (including this Measure) or rule of law relating to the presentation or collation of incumbents shall apply to any presentation or collation under this paragraph, and before the patronage board exercise their right of presentation or the Bishop exercises his right of collation under it they or he, as the case may be, must consult the other members of the team.
- (4) Where a pastoral scheme terminates a team ministry, the scheme shall —
  - (a) so far as practicable and having regard to pastoral considerations and to sub-paragraph (3), provide for restoring rights of patronage in respect of the benefice concerned to the persons who would have possessed them if the team ministry had never been established, and
  - (b) if and so far as it is not practicable to make such provision, shall make other provision for the vesting and exercise of rights of patronage in respect of the benefice.
- (5) Sub-paragraph (3) shall apply in relation to a pastoral scheme altering a team ministry under section 12(1)(e) as it applies in relation to a pastoral scheme establishing a team ministry.

**2. Team ministries: appointment of vicars**

- (1) A pastoral scheme establishing a team ministry which provides for the presentation of the rector by a patronage board constituted by the scheme may provide for the vicars in that ministry, other than the first holder of any office of vicar, if designated by the scheme, to be chosen by that board.
- (2) Where the scheme makes such a provision, the rector of the team ministry shall be a member of the patronage board for the purpose only of meetings at which the person to be appointed a vicar in that ministry is considered and chosen.
- (3) Every vicar in a team ministry, any deacon authorised to serve in a team ministry and any person having a special responsibility for pastoral care under section 10(6) shall be entitled between them to one vote, which shall be exercised by such one of them or such 2 or more of them (acting unanimously or by majority) as may be present at the meeting in question.
- (4) Where the scheme does not provide as mentioned in sub-paragraph (1), the vicar or vicars in the team ministry, other than the first holder of any office of vicar in it, if designated by the scheme, shall be chosen by the Bishop and the rector jointly.
- (5) Before the body or other persons who are entitled to choose a person to be a vicar in a team ministry make their choice, they shall consult—
  - (a) the other members of the team; and
  - (b) the parochial church council of every parish belonging to the benefice for the area of which the team ministry was established.
- (6) The following rules apply to the making of an offer of appointment as vicar in a team ministry —

- (a) The body or other persons who are entitled to choose a person to be a vicar in a team ministry shall not make any person an offer of appointment as such until the making of the offer to the person in question has been approved by the parish representatives.
  - (b) If, before the expiration of the period of 2 weeks beginning with the date on which the body or other persons sent to the parish representatives a request for them to approve under this sub-paragraph the making of the offer to the person named in the request, no notice is received from any representative of his or her refusal to approve the making of the offer, the representatives shall be treated as having to have given their approval under this sub-paragraph.
  - (c) If any parish representative refuses to approve under this sub-paragraph the making of the offer to the person named in the request, the representative shall notify in writing the body or other persons of the grounds on which the refusal is made.
  - (d) Where approval of an offer is refused under (c) above, the body or other persons may request the archbishop of York to review the matter and if, after review, the archbishop authorises the body or other persons to make the offer in question, that offer may be made accordingly.
- (7) In sub-paragraph (6) "parish representatives" means —
- (a) 2 lay members of the parochial church council concerned, or
  - (b) where a team council has been established by a pastoral scheme or by a scheme made under the Church Representation Rules in respect of a benefice comprising more than one parish, 2 lay members of the team council,
- appointed by that council to act as representatives of the council in connection with the selection of vicars in the team ministry.
- (8) Sub-paragraphs (2), (3) and (5) to (7) shall apply in relation to a pastoral scheme altering a team ministry under section 12(1)(e) as they apply in relation to a pastoral scheme establishing a team ministry.

### **3. Team meetings**

- (1) The rector in a team ministry shall convene meetings of the team at regular intervals for the purpose of discussing and reaching a common mind on all matters of general concern or special interest to the team ministry.
- (2) Unless the scheme otherwise provides, the rector shall preside at any meeting under this paragraph, except that if he requests otherwise or is absent another member of the team appointed by the meeting shall preside.
- (3) Any member of the team may, by notice in writing, request the rector to convene a team meeting under this paragraph to be held within the period of 28 days following the service of the notice; and, if the rector fails to comply with such a request, that member may himself convene the meeting.

### **4. Group ministries: patronage**

- (1) This paragraph applies where a group ministry is established by a pastoral scheme for a group of benefices.
- (b) Before the patron of a benefice in the group makes a request under section 13 of the Patronage (Benefices) Measure 1986 for the approval of —
  - (a) the parish representatives (as defined in section 11(7) of that Measure), and
  - (b) unless the registered patron is the Bishop, the Bishop,to the making to a priest of an offer to present him to the benefice, the patron must consult the other incumbents and any priest in charge in the group.

**5. Patronage boards**

- (1) This paragraph applies to a patronage board constituted under section 23(3) or by a pastoral scheme establishing a team ministry.
- (2) A patronage board constituted under section 23(3) shall consist of such members as the scheme may provide, and the scheme may designate the member who is to be chairman of the board.
- (3) A patronage board constituted by a pastoral scheme establishing a team ministry shall consist of —
  - (a) the Bishop, who shall be chairman of the board,
  - (b) subject to paragraph 2(2), the rector,
  - (c) every vicar in the team ministry;
  - (d) any deacon authorised to serve in the team ministry,
  - (e) any person having special responsibility for pastoral care under section 10(6), and
  - (f) such other member or members as the scheme may provide.
- (4) Regard shall be had in making provision under sub-paragraph (3)(f) to the interests of persons who previously had —
  - (a) patronage rights in the benefice for which the team ministry is established, or
  - (b) if it is a new benefice created by the union of 2 or more benefices, patronage rights in any of the constituent benefices;but it shall not be necessary, in cases where there are pastoral or practical objections, for those persons or all of them to be members of the patronage board.
- (5) Without prejudice to the generality of sub-paragraph (4), the scheme by which a patronage board is established may provide for empowering the Bishop to appoint one or more persons, but not exceeding the number specified in the scheme, to be a member or members of the board for such period as the Bishop may specify when making the appointment.
- (6) If Her Majesty is a member of a patronage board —
  - (a) her functions as such a member may be exercised on her behalf by the Governor; and
  - (b) the Governor may be represented by a person authorised to act and vote on his behalf, being a person who has made the declaration of membership within the meaning of the Patronage (Benefices) Measure 1986.
- (7) The Bishop may authorise the Archdeacon to act for him at any meeting of a patronage board and to exercise his voting rights.
- (8) Any other member of a patronage board (including any body corporate or unincorporated body of persons) may be represented by a person authorised to act and vote on his or her or their behalf being a person who has made the declaration referred to in sub-paragraph (6)(b).
- (9) Subject to sub-paragraph (10) and paragraph 2(3), a scheme by which a patronage board is constituted may provide that —
  - (a) any members of the board specified in the scheme shall be entitled to such number of votes as may be so specified, and
  - (b) where there is an equal division of votes the Bishop, as chairman, shall have a casting vote;but except in so far as the scheme so provides, each member of the board shall be entitled to one vote.
- (10) In the case of a patronage board constituted by a pastoral scheme establishing a team ministry —
  - (a) every vicar in the team ministry,
  - (b) any deacon authorised to serve in the team ministry, and

- (c) any person having a special responsibility for pastoral care under section 10(6), shall be entitled between them to one vote which shall be exercised by such one of them or such 2 or more of them (acting unanimously or by majority) as may be present at the meeting in question.
- (11) A patronage board shall be a body corporate for the purpose of holding the rights of patronage conferred upon it, and shall have a seal, and shall have power to regulate its own procedure.
- (12) The rights to be members of a patronage board shall, except where such rights are vested in a person in right of his office or only for life or a term of years, be transferable inter vivos and on death, but in no case shall such rights be saleable and they shall not be treated as rights in land.
- (13) Persons having the rights mentioned in sub-paragraph (12) must furnish to the diocesan registrar particulars of their rights, including particulars of any transfer or devolution of the rights, and if they fail to do so their rights may be disregarded for the purposes of this paragraph (including sub-paragraph (13)).
- (14) Sub-paragraphs (3) to (13) apply in relation to a pastoral scheme altering a team ministry under section 12(1)(e) as they apply in relation to a pastoral scheme establishing a team ministry.

#### **6. PCCs and team and group councils**

- (1) Where a pastoral scheme establishes a team ministry, the scheme, or the Bishop's licence of any vicar in the team ministry, may assign to any such vicar —
  - (a) the duties or a share in the duties of the chairmanship of the annual parochial church meeting and the parochial church council of the parish or any of the parishes in the area of the benefice for which the team ministry is established, and
  - (b) other duties of the minister of the parish under the Church Representation Rules or a share in such other duties,and those Rules shall have effect accordingly.
- (2) If the duties of chairmanship are to be shared under the scheme or licence, the arrangements shall be such that the chairman on any occasion is determined in advance so that, in his absence, the vice-chairman of the parochial church council shall take the chair in accordance with the Rules.
- (3) Where a pastoral scheme establishes a team ministry for the area of a benefice which comprises more than one parish, the scheme may make provision, or authorise the Bishop by instrument under his hand with the concurrence of the rector to make provision—
  - (a) for the establishment of a team council,
  - (b) for the chairman, meetings and procedure of the team council, and
  - (c) subject to paragraph 19 of Schedule 2 to the Patronage (Benefices) Measure 1986, for the functions of the parochial church council of each parish in the area which must or may be delegated to the team council, being provisions to the same effect as those which may be made by a scheme under the Church Representation Rules in the like case.
- (4) Where a pastoral scheme establishes a group ministry, the scheme may make provision, or authorise the Bishop by instrument under his hand with the concurrence of all the members of the group to make provision —
  - (a) for the establishment of a group council,
  - (b) for the chairman, meetings and procedure of the group council, and
  - (c) for the functions of the parochial church council of each parish in the area for which the group ministry is established which must or may be delegated to the group council, being provisions to the same effect as those which may be made by a scheme under the Church Representation Rules in the like case.



- (5) Any provisions which are included in the scheme or the Bishop's instrument by virtue of sub-paragraph (3) or (4) ceases to have effect at the expiration of —
  - (a) the period of 5 years from the date of the establishment of the team ministry or group ministry to which the scheme or instrument relates, or
  - (b) such lesser period as may be specified in the scheme or instrument, as the case may be, and that period may not be extended or renewed by a subsequent scheme or instrument of the Bishop.
- (6) Where a pastoral scheme makes provision under section 9(11), sub-paragraphs (1), (2), (3) and (5) have effect as if the references to the area of the benefice were references to the combined area of the benefices concerned.

## **7. Joint PCCs**

- (1) Sub-paragraph (2) applies where a pastoral scheme provides for —
  - (a) 2 or more parishes to be comprised in the area of a single benefice, or
  - (b) 2 or more benefices to be held in plurality.
- (2) The scheme may make provision, or authorise the Bishop by instrument under his hand with the concurrence of the incumbent of the benefice or benefices to make provision, —
  - (a) for establishing a joint parochial church council for all or some of the parishes of the benefice or benefices;
  - (b) for the chairmanship, meetings and procedure of the council, and
  - (c) subject to paragraph 20 of Schedule 2 to the Patronage (Benefices) Measure 1986, for the functions of the parochial church council of any such parish which must or may be delegated to the joint parochial church council, being provisions to the same effect as those which may be made by a scheme under the Church Representation Rules in the like case.
- (3) Subject to sub-paragraph (4), any provisions which are included in a pastoral scheme or the Bishop's instrument by virtue of sub-paragraph (2) shall cease to have effect at the expiration of the period of 5 years from the date on which the scheme, as the case may be, came into operation, or such lesser period as may be specified in the scheme, order or instrument, and that period may not be extended or renewed by a subsequent pastoral scheme or instrument of the Bishop.
- (4) Where the provisions of a pastoral scheme for the holding of benefices in plurality are terminated under section 8(2) or (3) —
  - (a) any provision of a pastoral scheme or the Bishop's instrument establishing a joint parochial church council for all or some of the parishes of those benefices, and
  - (b) the other provisions of it affecting that council,shall cease to have effect on the date on which the first mentioned provisions cease to have effect.

## **8. Admission and induction to benefices**

- (1) Where, in a case not falling within sub-paragraph (4)(a), any person is appointed an incumbent of a benefice in the area of which 2 or more parish churches are situated —
  - (a) the Bishop may direct in which parish church the incumbent is to be inducted;
  - (b) after the induction he shall be treated as having been inducted in both or all of the parish churches situated in the area of that benefice and as having been admitted to that benefice; and
  - (c) no further fees in respect of the induction shall be payable.
- (2) Where, in a case not falling within sub-paragraph (5)(a), any person is appointed an incumbent of benefices which are to be held in plurality —

- (a) the Bishop may direct that the incumbent shall be inducted in such one of the parish churches in the areas of those benefices as he may specify;
  - (b) after the induction the incumbent shall be treated as having been inducted in all of the parish churches in those areas and as having been admitted to each of those benefices; and
  - (c) no further fees in respect of the induction shall be payable.
- (3) Any person who is designated by or selected under a pastoral scheme as the incumbent of a benefice shall not be required to be presented to that benefice nor shall the Bishop be required to nominate that person as the person to whom he collates the benefice.
- (4) Where a pastoral scheme creates a new benefice, transfers a parish from one benefice to another or establishes a team ministry for the area of a benefice, then—
- (a) if the first incumbent of that new benefice or the first rector of that ministry is designated or selected as aforesaid, he or she shall, unless the Bishop otherwise directs, be treated as having been admitted to that new benefice or to the benefice for the area of which the team ministry is established, as the case may be, and no fees in respect of the admission shall be payable;
  - (b) in any other case sub-paragraph (1) applies.
- (5) Where a pastoral scheme provides for the holding in plurality of 2 or more benefices, then—
- (a) if the first incumbent who is to hold all the benefices concerned was immediately before the scheme comes into operation the incumbent of any of those benefices, he or she shall, unless the Bishop otherwise directs, be treated as having been admitted to the other benefice or benefices, and no fees in respect of the admission shall be payable;
  - (b) in any other case sub-paragraph (2) shall apply.
- (6) It shall not be necessary, by reason only of the substitution of another church for a parish church by the scheme, for the incumbent of the benefice to be inducted in the new parish church or comply with any other process or form of law.

## **9. Churchwardens**

- (1) Where a pastoral scheme creates a new parish, the churchwardens of the parish shall be a body corporate with perpetual succession.
- (2) Where a pastoral scheme provides for —
- (a) the creation, whether by union or otherwise, of a new parish, or
  - (b) the dissolution of an existing parish,
- the scheme may make such adaptations or modifications of any statutory provisions relating to churchwardens as the Commissioners think necessary or expedient

## **10. Vesting of property: general**

- (1) Where a pastoral scheme creates a new benefice by a union of benefices —
- (a) any church, churchyard or burial ground which was previously vested in right of his or her benefice in the incumbent of any of the constituent benefices, shall vest in the incumbent of the new benefice;
  - (b) any parsonage house or other property which was previously vested in right of his or her benefice in the incumbent of any of the constituent benefices shall vest —
    - (i) if the incumbent of the new benefice is subject to Common Tenure or the benefice is vacant, vest in the Board;
    - (ii) otherwise, in the incumbent of the new benefice.

This sub-paragraph shall not apply to any parsonage house for which other provision is made by or under a pastoral scheme.

- (2) Where by virtue of a pastoral scheme (other than a scheme to which sub-paragraph (1) applies) any church or churchyard or burial ground previously vested in the incumbent of a benefice becomes situated in a parish belonging to another benefice —
  - (a) the church, churchyard or burial ground, and
  - (b) any movable property used for the purposes of it and so vested,shall vest in the incumbent of that other benefice.
- (3) Where in a case to which sub-paragraph (1) or (2) applies, the property was previously vested in the incumbent of a benefice jointly with the churchwardens of a parish, it shall vest in accordance with that sub-paragraph in the incumbent of the new benefice or other benefice, as the case may be, jointly with the churchwardens of the parish in which the property is situated.
- (4) If a pastoral scheme contains a statement that any property mentioned in sub-paragraph (1) or (2) was previously vested in the incumbent of a benefice, or in the incumbent of a benefice jointly with the churchwardens of a parish, the statement shall be conclusive evidence of that fact.
- (5) Where any movable property used for the purposes of a church or churchyard is vested in the churchwardens or parochial church council of a parish, and the church or churchyard becomes situated in another parish by virtue of a pastoral scheme, the property shall vest in the churchwardens or, as the case may be, the parochial church council of that other parish.
- (6) Sub-paragraphs (1) to (5) shall have effect subject to any express provision of a pastoral scheme and, where applicable, to the provisions of paragraph 13 relating to property held on charitable trusts.
- (7) Where a pastoral scheme provides for the transfer of any property to any person, or any property vests by virtue of this paragraph in any person, that property shall, when the transfer or vesting takes effect, vest in that person free and discharged from all previously existing trusts and charges in favour of any benefice, but subject—
  - (a) to paragraph 11, where applicable,
  - (b) to all other previously existing trusts and charges and any previously existing tenancies, and
  - (c) in the case of an endowment, to any provision made under section 24(1) for applying towards the payment of stipends of the clergy of the diocese the income or any part of the income of the endowment, unless the scheme otherwise provides.
- (8) A pastoral scheme may with the consent of the incumbrancer provide for the apportionment of any sum charged on property of which only part is transferred by the scheme and for securing the sums so apportioned on the respective parts of the property

## **11. Loans**

- (1) This paragraph applies to loans made under any Act or Measure, being in each case loans in respect of which principal money or interest is owing to the Board.
- (2) Where a loan has been made in respect of property which is transferred by a pastoral scheme to the Board then, unless the scheme otherwise provides, the Board may —
  - (a) cause the loan to be discharged immediately out of the diocesan pastoral account or out of the proceeds of any disposal of the property;
  - (b) postpone that discharge, with or without payment of interest on the loan during the period of postponement, for such period and on such reasonable conditions as the Board may from time to time determine.
- (3) The Commissioners may, where necessary, determine whether a loan and what part of the loan was made in respect of any particular property, and apportion a loan to parts of the property in respect of which it was made.

**12. Disposal of parsonage house etc.**

- (1) Where any property is transferred under section 22 by a pastoral scheme to the Board for disposal, the Board may dispose of it either as a whole or in parts and at such time or times as they think fit.
- (2) The powers of the Board under sub-paragraph (1) include —
  - (a) power to let, sell or exchange any land so transferred, and
  - (b) power to demolish any building or part of a building so transferred.
- (3) Where a pastoral scheme provides for the transfer under section 22 of any property to the Board for disposal, the scheme may provide for the application of the net proceeds of disposal (including net premiums and rents) or any part of them towards the provision, restoration, improvement or repair of —
  - (a) a church,
  - (b) a place of worship within the meaning of section 1,
  - (c) a parsonage house, or
  - (d) a house for any person declared by the Bishop to be engaged in the cure of souls within the diocese,
- (4) Except in so far as the scheme may so provide and subject to sub-paragraph (7), the net proceeds shall be paid into the capital account of the diocesan stipends fund or into the diocesan pastoral account, or partly into the one and partly into the other, as the Board may determine or as the scheme may provide.
- (5) Despite sub-paragraphs (1) to (4), the Board may elect to take over and hold as part of their corporate property any property transferred to them for disposal, for such consideration as the Board may determine as representing the fair value of the property, and the amount of the consideration shall be applied, paid or credited as if it were the net proceeds of the disposal of the property.
- (6) Where a pastoral scheme provides for the transfer of any property to the Board for use for diocesan or parochial purposes —
  - (a) the transfer shall, unless the scheme otherwise provides, be without consideration, and in that case no consideration shall be payable by a parochial church council in respect of the use of it for parochial purposes;
  - (b) the Board may appoint the parochial church council as managers or managing trustee of any property to be used for parochial purposes.
- (6) On a disposal of land comprising the parsonage house of a benefice, the Board shall pay to the parochial church council of any parish or part of a parish within the area of the benefice out of the net proceeds of the disposal a sum equal to the total of any sums expended by the council in carrying out, or in meeting or contributing to the cost of, any works of improvement of the house carried out with the consent of the Board during the 10 years ending with the completion of the disposal (after deducting the amount of any grant made to the council by the Board for the purpose), reduced by one-tenth for each complete year which has elapsed between the date on which the expenditure was incurred and the completion of the disposal.
- (7) Any question under sub-paragraph (6) whether any works carried out to a parsonage house are works of improvement shall be referred to and determined by the Archdeacon, whose decision shall be final.

**13. Church and parochial trusts**

- (1) Where —
  - (a) any benefice is dissolved by a pastoral scheme, whether in consequence of a union of benefices or otherwise, and

- (b) any property of a charity established for ecclesiastical purposes of the Church of England is vested in or under the management or control of the incumbent of that benefice (with or without other persons) or a corporation of which he or she is a member,

the trusts of the charity or the constitution of the corporation shall have effect with the substitution for that incumbent of —

- (i) the incumbent of the new benefice created by the union, or
- (ii) in a case arising otherwise than in consequence of a union, the incumbent of such benefice as may be specified by order of the Board, being a benefice the area of which incorporates part of the area of the dissolved benefice.

(2) Where —

- (a) any parish is dissolved by a pastoral scheme, whether in consequence of a union of parishes or otherwise, and
- (b) any property of a charity established for ecclesiastical purposes of the Church of England is vested in or under the management or control of the churchwardens or parochial church council of that parish (with or without other persons),

the trusts of the charity shall have effect with the substitution for those churchwardens or that council of the churchwardens or parochial church council of —

- (i) the parish created by the union, or
- (ii) in a case arising otherwise than in consequence of a union, such parish as may be specified by order of the Board, being a parish which incorporates part of the dissolved parish.

(3) Sub-paragraph (4) applies where —

- (a) any property of a charity established for ecclesiastical purposes of the Church of England is vested in or under the management or control of the incumbent of a benefice (with or without other persons) or a corporation of which the incumbent of a benefice is a member,
- (b) a team ministry is established by a pastoral scheme for an area comprising the whole or major part of the area of that benefice, and
- (c) either —
  - (i) a special cure of souls in respect of a part of the area for which that ministry is established, being a part which consists of the first mentioned benefice or a major part of the area of it, is assigned by the scheme or the Bishop's licence to a vicar in the team ministry, or
  - (ii) where a special cure of souls is not so assigned, a special responsibility for pastoral care in respect of such a part of that area is assigned to a member of the team under section 10(6).

(4) Where this sub-paragraph applies —

- (a) the trusts of the charity or the constitution of the corporation shall have effect with the substitution for the incumbent of the benefice of that vicar or that member, as the case may be, but
- (b) otherwise those trusts and that constitution shall (where necessary) have effect with the substitution for that incumbent of any such member of the team as may be nominated for the purposes of this sub-paragraph by the Bishop.

(5) Where —

- (a) a union of benefices or parishes is effected by a pastoral scheme, or the area of a benefice or parish is altered by a pastoral scheme, and
- (b) the purposes of a charity established for ecclesiastical purposes of the Church of England are defined by reference to one of the constituent benefices or parishes or, as the case may be, to the benefice or parish affected by the alteration,

the trusts of the charity shall (subject to any scheme mentioned in sub-paragraph (6)) have effect with the substitution for that benefice or parish of the benefice or parish created by the union or, as the case may be, of the benefice or parish as altered.

- (6) Any scheme made by the Board under Schedule 3 to the Church Act 1992 for purposes arising in connection with a pastoral scheme may be made before the date on which the pastoral scheme comes into operation, but not so as to take effect before that date.

- (7) Where —

- (a) by reason of the dissolution of a parish by a pastoral scheme, the parochial church council of that parish ceases to exist, and
- (b) any property vested in, or held on behalf of, that council is not dealt with under the foregoing provisions of this paragraph,

the property shall vest in or be held on behalf of the parochial church council of the parish in which the parish church of the dissolved parish, or the site of that church, is situated, for the like purposes, as nearly as may be, as those for which it was previously applicable in the hands of the first mentioned council.

Any question arising as to the application of any such property or the income of it shall be referred to the Bishop, whose decision shall be final and conclusive.

- (8) Where —

- (a) as a condition of any benefaction, attendance at or the performance of Divine Service or any other act is required at any church, and
- (b) that church ceases in consequence of a declaration of redundancy made by a pastoral scheme to be used for Divine Service, and
- (c) the case is not provided for under the foregoing provisions of this paragraph,

the parish church of the parish in which the first mentioned church or the site of it is situated shall be substituted for the first-mentioned church for the purpose of the performance of the required act.

- (9) The provisions of this paragraph shall not apply to any fund or property for which provision is made under paragraph 17 of Schedule 3.

#### **14. Liability of PCC as respects chapel**

Without prejudice to any general rule of law relating to parochial church councils, the powers, duties and liabilities set out in section 4(1)(ii) of the Parochial Church Councils (Powers) Measure 1956<sup>17</sup> shall continue to apply to any church which was formerly a parish church and becomes a chapel of ease as the result of a pastoral scheme, and to the churchyard of any such church, except so far as the scheme otherwise provides.

#### **15. Marriages and banns of matrimony**

- (1) Where the publication of banns of matrimony has been duly commenced in any church, the publication may be completed either in the same church or in any other church which, by virtue of this Measure, has at the time of completion taken the place of the first-mentioned church for the purpose of publication of banns, either generally or in relation to the parties to the intended marriage.
- (2) Where, after the completion of the publication of the banns in any church, another church has by virtue of any provision of this Measure or anything done under it become a church in which banns of matrimony could be published in relation to the parties to the intended marriage, the marriage may be solemnised in that other church.
- (3) Where a declaration of closure for regular public worship is made has been made in respect of a chapel, any licence relating to that chapel granted under section 14(1) of the Marriage Act 1984 shall be treated as having been revoked under that section.

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<sup>17</sup> 1956 No.3

- (4) Where —
- (a) 2 or more benefices are held in plurality under this Measure, or
  - (b) by virtue of any provision of this Measure or anything done under it there are 2 or more parish churches in the area of a single benefice,
- the bishop may in writing direct where banns of matrimony of persons entitled to be married in any church of those benefices, or in any church in that area, as the case may be, may be published and where marriages of those persons may be solemnised.
- (5) Nothing in sub-paragraph (4) deprives a person of his or her right to be married in any church in which he would have been entitled to be married if no directions had been given under that sub-paragraph; and a person may be married in a church in which he or she would have been so entitled, even though banns of matrimony have by virtue of that sub-paragraph been published only in some other church.
- (6) Where after the issue of a common licence for the solemnisation of the marriage in any church, another church has, by virtue of any provision of this Measure or anything done under it, taken the place of that church as a church in which the marriage of the parties concerned ought to be solemnised in pursuance of a common licence, the marriage may be solemnised in that other church.

**16. Burial rights in new or altered parishes**

- (1) Subject to sub-paragraph (2), on a union of parishes by virtue of a pastoral scheme the persons residing within the limits of the parish created by the scheme shall have the rights and privileges (if any) of parishioners in respect of burials in that parish.
- (2) Any such parishioner who, before the union took effect, had any rights of burial in a churchyard within the limits of a constituent parish shall, so long as that churchyard remains open for interments, continue to have those rights and shall not become entitled by virtue of the union to rights of burials in any other churchyard.
- (3) On the creation, otherwise than by union, of a new parish by a pastoral scheme, the persons residing within the limits of the new parish shall continue to have the same rights and privileges in respect of burials which they enjoyed before the creation of the new parish, but such rights shall cease when they obtain rights of burial as parishioners of the new parish.
- (4) Where, by virtue of a pastoral scheme providing for the alteration of parochial boundaries, any persons come to reside within a different parish, they shall have such rights and privileges in respect of burials as are possessed by parishioners of that different parish and not any others

SCHEDULE 2

PROCEDURE FOR MAKING PASTORAL SCHEMES

**1. Interested parties**

- (1) Subject to sub-paragraphs (2) to (4), in this Measure the "interested parties", in relation to any recommendations, proposals, draft scheme or scheme, are —
  - (a) incumbents of any benefices which would be or are affected by the implementation of them or it, including vicars in a team ministry established for the area of any such benefice;
  - (b) the patrons of any such benefices;
  - (c) the parochial church councils of any parishes which would be or are so affected.
- (2) Where —
  - (a) any recommendations, proposals, draft scheme or scheme relate or relates to any person holding office under Common Tenure whose office would or might be abolished if they or it took effect, and
  - (b) that person is entitled to receive a stipend or other emoluments of office, including any provision of accommodation,the interested parties include that person.
- (3) In the case of a recommendation or proposal for the closure of a building for regular public worship, or a draft scheme or scheme containing a declaration of closure for regular public worship, the interested parties include —
  - (a) the Department of Infrastructure
  - (b) Manx National Heritage, and
  - (c) the local authority for the district in which the building to which the recommendation, proposal or declaration relates is situated.
- (4) For the purposes of this paragraph —
  - (a) "incumbent", in relation to a benefice in respect of which a suspension period has been declared and is for the time being in force, means the priest in charge of it;
  - (b) a change in the patronage of a benefice shall be treated as affecting that benefice and the parish or parishes of the benefice.

**2. Formulation and submission to Bishop of draft proposals**

- (1) Before deciding to make any recommendations to the Bishop, the Commissioners shall so far as may be practicable ascertain the views of the interested parties or invite them to express their views.
- (2) Before deciding to make a recommendation for the closure of a church for regular public worship the Commissioners shall consult the Department of Infrastructure and Manx National Heritage.
- (3) Before reaching their decision, the Commissioners shall afford to each interested party mentioned in paragraph 1(1) or (2), if the party so requests, an opportunity of meeting the Commissioners (in the case of a parochial church council, as a council or by their representative).
- (4) When the Commissioners have decided to make recommendations, they shall formulate them in proposals and submit them to the Bishop for approval, with a statement of the views of the interested parties.



- (5) The Bishop may, with the consent of the Commissioners, make such amendments to the proposals as appear to him desirable.

**3. Preparation of draft scheme**

- (1) If the Bishop approves, either with or without amendments, proposals submitted to him under paragraph 2(4), he shall notify the Commissioners, who shall prepare a draft scheme giving effect to the proposals, with any amendments.
- (2) The Commissioners may, with the consent of the Bishop, decide to proceed with some but not all of the proposals, and in that case sub-paragraph (1) and the following provisions of this Schedule shall apply as if they were the only proposals.
- (3) Where the Commissioners proceed with proposals for any of the matters contained in sections 7 to 12, they shall —
  - (a) send a copy of the proposals to the patrons of any of the benefices concerned, and
  - (b) inform them that if the benefice is or becomes vacant section 31(1) will apply in relation to the benefice.

**4. Notice and publication of draft schemes**

- (1) The Commissioners shall serve on each of the interested parties —
  - (a) a copy of a draft scheme prepared under paragraph 3, and
  - (b) a notice stating that written representations with respect to it may be made to the Commissioners not later than a date specified in the notice, being a date not less than 28 days after the service of the notice.
- (2) The Commissioners shall —
  - (a) send copies of a notice under sub-paragraph (5) to the secretary of the parochial church council of every parish affected by the draft scheme, and
  - (b) require him to affix a copy on or near the principal door of —
    - (i) every church in the parish, and
    - (ii) every building licensed by the Bishop for public worship in the parish.
- (3) If the draft scheme contains —
  - (a) any provision mentioned in section 20(1), or
  - (b) a declaration of closure for regular public worship,the Commissioners shall—
  - (i) also serve a copy of it on the Commonwealth War Graves Commission; and
  - (ii) publish in one or more local newspapers a notice under sub-paragraph (4).
- (4) A notice referred to in sub-paragraph (2)(a) or (3)(ii) shall —
  - (a) state the objects of the draft scheme,
  - (b) name a place or places in the Island where a copy of it may be inspected, and
  - (c) state that written representations with respect to the draft scheme may be made to the Commissioners not later than a date specified in the notice, being —
    - (i) in the case of a notice referred to in sub-paragraph (2)(a), a date not less than 28 days after the sending of the notice;
    - (ii) in the case of a notice referred to in sub-paragraph (3)(ii), a date not less than 28 days after the first publication of the notice under that sub-paragraph.
- (5) The Commissioners shall consider any written representations duly made with respect to any draft scheme and may, if they think fit, afford an opportunity to any person, whether he or she

has made written representations or not, to make oral representations with respect to the draft scheme.

- (6) The Commissioners may, before or after the end of the period within which written representations may be made under this paragraph, extend that period, and any representations made within the period so extended shall be treated as duly made.

**5. Amendment of draft schemes**

- (1) The Commissioners—

- (a) at the request of the Bishop, or
- (b) as a result of any representations,

may, with the consent of the Bishop, at any time amend any draft scheme prepared under this Schedule.

- (2) If any such amendments (other than amendments described in paragraph 9(1)) are made after a copy of the draft scheme has been served under paragraph 4(1), the amended draft scheme shall be treated in the same manner as an original draft scheme, and paragraph 4 shall apply accordingly.

**6. Making of schemes**

- (1) Where —

- (a) no representations with respect to any such draft scheme have been duly made and the Commissioners are of the opinion that the draft scheme should be made, and do not propose to amend or further amend it under paragraph 5, or
- (b) representations with respect to any such draft scheme have been duly made and the Commissioners, having considered those representations, are of the opinion that the draft scheme should be made, and do not propose to amend or further amend it under paragraph 5,

they shall, with the Bishop's consent, make the scheme under their common seal.

- (2) As soon as may be after making the scheme the Commissioners must —

- (a) publish in one or more local newspapers a notice under sub-paragraph (3);
- (b) so far as practicable, send to the persons who duly made written representations with respect to the draft scheme —
  - (i) a notice under sub-paragraph (3), and
  - (ii) a statement in writing of the Commissioners' decision with respect to the representations and the reasons for it;
- (c) send to any other persons, being interested parties —
  - (i) a copy of the scheme, and
  - (ii) a notice under sub-paragraph (3); and
- (d) send a copy of the scheme to the Chief Registrar, who shall file it in the General Registry.

- (3) A notice referred to in sub-paragraph (2) shall —

- (a) state the effect of the scheme,
- (b) name a place or places in the Island where a copy of the scheme may be inspected, and
- (c) include a statement of the effect of paragraph 7(2) and (3).

- (4) The Commissioners shall send the scheme to the diocesan registrar, who shall file it in the diocesan registry.

**7. Validity and operation of schemes**

- (1) Except as provided by this paragraph, the validity of a scheme made by the Commissioners under this Schedule shall not be questioned in any legal proceedings.
- (2) If any person aggrieved by the scheme desires to question the validity of the scheme on the ground —
  - (a) that it is not within the powers conferred by this Measure, or
  - (b) that any requirement of this Schedule has not been complied with in relation to the preparation, making or publication of the scheme,that person may, within 6 weeks of the first publication of the notice referred to in paragraph 6(2)(a), apply to the High Court.
- (3) On an application under sub-paragraph (2) the High Court —
  - (a) may by interim order wholly or in part suspend the operation of the scheme, either generally or in so far as it affects the applicant, until the final determination of the proceedings; and
  - (b) if satisfied —
    - (i) that the scheme is wholly or to any extent outside the powers conferred by this Measure, or
    - (ii) that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of this Schedule,may wholly or in part quash the scheme either generally or in so far as it affects the applicant.
- (4) Except in so far as any such scheme or any provision of it is expressed to come into operation on a date, event or contingency specified in it, the scheme comes into operation on the date on which it is made by the Commissioners.

**8. Withdrawal of scheme at request of Bishop**

If the Bishop considers that any proposals or draft scheme should not be proceeded with, he may, after consulting the Commissioners, direct the Commissioners not to proceed with the proposals or draft scheme, as the case may be, but without prejudice to the making of fresh proposals.

**9. Supplementary powers of Commissioners**

- (1) The Commissioners may at any time make such amendments to proposals or a draft scheme as appear to them to be necessary for the purpose of correcting any drafting mistake or omission.
- (2) Nothing in this Schedule limits in any way the powers of the Commissioners to consider any representations made to them by any person and to hold such consultations and interviews and make such inquiries as they think fit.

Section 18.

SCHEDULE 3

BUILDINGS CLOSED FOR REGULAR PUBLIC WORSHIP

PART 1

PROVISIONS WHICH MAY BE MADE BY PASTORAL SCHEME

**1. Appropriation or demolition of church to be closed for regular public worship**

- (1) This paragraph applies where the Commissioners —
  - (a) are satisfied that a new church or place of worship is to be provided in the area of a benefice to take the place of a church building or church buildings in that area which should thereupon be declared closed for regular public worship, and
  - (b) are satisfied with the proposals made for the future of the church building or any of the church buildings to be closed.
- (2) A pastoral scheme may further provide—
  - (a) for the appropriation of the building to be closed in accordance with paragraph 4(1)(a) or for its demolition, and for any of the matters mentioned in paragraph 4(2), (3) or (4);
  - (b) for the payment to the Board of —
    - (i) the proceeds of any sale or exchange of the building or the site of it, or any part of the building or site, with or without any land annexed or belonging to it, and
    - (ii) the premium on any lease or licence of the building or site or any part of the building or site with or without any such land; and
  - (c) subject to sub-paragraph (6), for the application of the net proceeds and net premiums to defray the cost of providing the new church or place of worship and, if the whole amount of them is not required for that purpose, for the payment of the balance to the diocesan pastoral account.
- (3) A pastoral scheme which provides for the demolition of a building closed for regular public worship may provide for its demolition by the Board.
- (4) Where a pastoral scheme makes such provision as is mentioned in sub-paragraph (2), the declaration of closure for regular public worship shall not take effect until the new church or place of worship is provided.
- (5) Sub-paragraph (4) does not apply where the Commissioners are satisfied that, if the church or any of the churches to be replaced is disposed of or demolished before the new church or place of worship is provided, a suitable building will be available in the meantime (not necessarily in the same parish) for use in place of that church.
- (6) Where before a declaration of closure for regular public worship is made by a pastoral scheme under this paragraph in respect of a church which —
  - (a) was the subject of a sharing agreement, and
  - (b) on the termination of the agreement was vested in an incumbent and churchwardens by section 9(3) of the Sharing of Church Buildings Act 1969,any contribution in the nature of capital made in accordance with the agreement by any party to it, other than a party acting on behalf of the Church of England, or so much of it as the Commissioners may determine, may be repaid to that party by the Board out of the proceeds of any sale or exchange, or the premiums on any lease or licence, of that church, any part of that church, or the site of it before the net proceeds or net premiums, as the case may be, are applied in accordance with sub-paragraph (2)(c).
- (5) References in this paragraph to the provision of a new place of worship include references to the provision of such a place by adapting, improving or repairing an existing building.

- (6) In this paragraph "place of worship" —
- (a) means a building licensed by the Bishop for public worship in accordance with the rites and ceremonies of the Church of England, being a building used wholly for the purposes of such worship and purposes ancillary thereto, or partly for those purposes and partly for other ecclesiastical purposes of the parish or purposes ancillary thereto, and
  - (b) includes a building which, pursuant to an agreement under the Sharing of Church Buildings Act 1969, is to be used as a place of worship jointly with another Church and is to be owned by the Church of England only or to be jointly owned by that Church and any other Church.

**2. Other provision by pastoral scheme for church to be closed for regular public worship**

- (1) This paragraph applies where a pastoral scheme makes a declaration of closure of a church for regular public worship in respect of any church or part of a church, not being a case to which paragraph 1 applies.
- (2) Where the Commissioners are satisfied that a suitable use or uses will be available for the building to be closed for regular public worship when the declaration takes effect, the pastoral scheme may —
  - (a) provide for the appropriation of the building to that use or those uses, and
  - (b) may make further provision for any of the matters mentioned in paragraph 4(2), and paragraph 4(5) to (7) shall apply accordingly.
- (3) Where the Commissioners are satisfied that no suitable or appropriate alternative use will be available for the building to be closed for regular public worship when the declaration takes effect, the pastoral scheme may, with the consent of Manx National Heritage, provide —
  - (a) for its care and maintenance by Manx National Heritage, and
  - (b) also for the care and maintenance by Manx National Heritage of the whole or any part of the land annexed or belonging to the building or the church of which the building is part (including land which is or has been used for burials).
- (4) Where —
  - (a) the church is neither a registered building nor situated in a conservation area, and
  - (b) the Commissioners are satisfied with the proposals for the future of the building,the pastoral scheme may provide for the demolition of the building to be closed for regular public worship and for any of the matters for which paragraph 4(4) makes provision, and paragraph 4(5) to (7) shall apply accordingly.

PART 2

DISPOSAL OF BUILDINGS CLOSED FOR REGULAR PUBLIC WORSHIP

**3. Period for seeking alternative use**

- (1) Where a declaration of closure for regular public worship is made in a case to which neither paragraph 1 nor paragraph 2 applies, the building closed for regular public worship, together with its contents, when the declaration takes effect, shall vest in the Board.
- (2) During the period between the taking effect of a declaration of closure for regular public worship and the coming into operation of a disposal scheme with respect to the building closed for regular public worship—
  - (a) the Board is responsible for the care and maintenance of the building closed for regular public worship, so far as is reasonable in all the circumstances, and the safe keeping of its contents, whether in the building or elsewhere, and must insure the building and contents;

- (b) the Board may without obtaining a faculty, but after consulting the advisory committee and the Vicar General (unless the Board considers that, having regard to the urgency of the need to safeguard the contents, it is not practicable to do so), transfer the contents of the building or any of them to some other place for safe keeping until the scheme comes into operation;
  - (c) the Board may with the consent of the Bishop and of the incumbent or priest in charge of the benefice in the area of which the building is situated, permit the building to be used occasionally for worship, including worship by persons belonging to other Christian Churches;
  - (d) while incurring no financial obligation, the incumbent or priest in charge and churchwardens of the parish in which the building is situated shall give the Board every assistance in providing for reasonable supervision of the building against damage.
- (3) On a declaration of closure for regular public worship taking effect, any liability of a parochial church council or rector (including a lay rector) for the repair and maintenance of the building closed for regular public worship and the safe keeping of its contents ceases, and Part 1 of the Church Act 1979<sup>18</sup> ceases to apply to the building.
- (4) Where the Board transfers any of the contents of the building closed for regular public worship to some other place, the Board must —
- (a) serve a notice on the Commissioners, Manx National Heritage and the diocesan registrar informing them of the transfer and giving particulars of the contents transferred and the address of the place in question, and
  - (b) serve a similar notice on any incumbent, priest in charge, parochial church council or sequestrators concerned.

#### **4. Contents of disposal schemes**

- (1) A disposal scheme must make the following provision for the building closed for regular public worship —
- (a) if a use or uses appearing to the Commissioners to be suitable have been found for the building or any part of it, the scheme may provide for appropriating the building or part to such use or uses, which must be specified or generally described in the scheme;
  - (b) if such use or uses cannot be found for the building or a part of it, the scheme may, with the consent of Manx National Heritage, provide for its care and maintenance by Manx National Heritage.
  - (c) if the building or any part of it is not appropriated or provided for under paragraph (a) or (b), the scheme may, with the consent of the Board, provide for the building or any part of it to remain vested in the Board and to be held by it on such terms as may be specified in the scheme;
  - (d) if the building or any part of it is not appropriated or provided for under (a) to (c) above, the scheme must provide for its demolition by the Board.
- (2) Where a disposal scheme provides for the appropriation of the building closed for regular public worship or any part of it to a use or uses specified or described in the scheme, the scheme may also—
- (a) provide for appropriating the whole or any part of the land annexed or belonging to the building or the church of which it forms part, to a use or uses so specified or described;
  - (b) empower the Board itself —
    - (i) to use or hold the property concerned for the use or uses so specified or described;
    - (ii) to let or license the property for such use or uses, or
    - (iii) partly the one and partly the other;

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<sup>18</sup> 1979 c.10

- (c) empower the Board, subject to any conditions prescribed by the scheme, to sell, give or exchange the property concerned or any part of it for such use or uses.
- (3) Where a disposal scheme provides for the building closed for regular public worship or any part of it to remain vested in the Board, the scheme may also —
  - (a) provide for appropriating the whole or any part of the land annexed or belonging to the building, or the church of which it forms part, to a use or uses specified or described in the scheme;
  - (b) empower the Board itself —
    - (i) to use or hold the property concerned for the use or uses so specified or described;
    - (ii) to let or license the property for such use or uses, or
    - (iii) partly the one and partly the other;
  - (c) empower the Board, subject to any conditions prescribed by the scheme, to sell, give or exchange that land or any part of it for such use or uses;
  - (d) transfer to the Board responsibility for the care and maintenance of that land or any part of it (including land which is or has been used for burials).
- (4) Where a disposal scheme provides for the demolition of the building closed for regular public worship or any part of it, it may also provide—
  - (a) for the sale, gift, exchange or lease by the Board, as the case may be, of the site or part of the site of the demolished building or part of the building, with or without the whole or any part of the land annexed or belonging to the building or to the church of which it forms part;
  - (b) for the disposal of the materials arising from the demolition;
  - (c) for specifying the use or uses for which any land sold, given, exchanged or let by the Board is to be used or allowing it to be used without limitation;
  - (d) for appropriating the site or any part of it for use as part of the churchyard or burial ground or for other ecclesiastical purposes of the parish.
- (5) Subject to sub-paragraph (7), the proceeds of any sale or exchange under sub-paragraph (2), (3) or (4) and the premiums on any lease or licence under those sub-paragraphs shall be paid to the Board who shall pay them to the diocesan pastoral account, and the net rent payable under any such lease or licence shall be paid into the said account.
- (6) Sub-paragraph (7) applies where —
  - (a) before a declaration of closure for regular public worship was made in respect of a church or part of a church that church or part was the subject of a sharing agreement under the Sharing of Church Buildings Act 1969,
  - (b) on the termination of the agreement it was vested in an incumbent and churchwardens by section 9(3) of that Act, and
  - (c) a contribution in the nature of capital was made in accordance with the agreement by any party to it, other than a party acting on behalf of the Church of England.
- (7) Where this sub-paragraph applies, the Board shall repay to that party out of the proceeds of any sale or exchange, or the premiums of any lease or licence, of that church or part or the site if it under sub-paragraph (2), (3) or (4) —
  - (a) that contribution, or
  - (b) so much of it as the Commissioners may determine,before the net proceeds or net premiums, as the case may be, are paid or applied in accordance with sub-paragraph (5).
- (8) Where —
  - (a) a pastoral scheme makes a declaration of closure for regular public worship in respect of a church,

- (b) the Commissioners are satisfied that a new church or place of worship is to be provided in the area of the benefice in which the first-mentioned church is situated to take the place of that church, and
- (c) a subsequent disposal scheme which makes provision, within the period of 3 years from the declaration of closure or such longer period as the Commissioners may allow, for the building closed for regular public worship also provides for any of the matters authorised to be included in the scheme by sub-paragraph (2)(b) or (c), (3)(b) or (c) or (4)(a) or (b)—

the proceeds of any sale or exchange made, and the premiums of any lease or licence granted, by virtue of those provisions shall be paid to the Board in accordance with sub-paragraph (5), but the net proceeds and net premiums shall be applied in accordance with paragraph 1(2)(c) and not in accordance with sub-paragraph (5).

- (9) Where a disposal scheme provides for the care and maintenance of the building closed for regular public worship or any part of it by Manx National Heritage, the scheme may also, with the consent of Manx National Heritage, provide for the care and maintenance by Manx National Heritage of the whole or any part of the land annexed or belonging to the building or the church of which the building is part (including any land which is or has been used for burials).
- (10) For the purposes of this paragraph and of paragraphs 1 and 2, and without prejudice to the generality of those provisions —
  - (a) the use of a building or part of a building for such special or occasional religious worship as may be authorised by the Bishop,
  - (b) its use as a place of religious worship for a university, college, school or other institution, or
  - (c) its use for religious worship by any Church other than the Church of England,shall be a use to which a building closed for regular public worship or a part of it may be appropriated by a pastoral scheme or disposal scheme, and the consent of the incumbent or priest in charge of the benefice in the area of which the building is situated shall not be required for any such use.
- (11) Section 25 applies to disposal schemes as it applies to pastoral schemes, with the omission of the reference to the agreement of the Bishop.

#### **5. Procedure for making disposal schemes**

- (1) The Commissioners may at any time, and shall in any case not later than 2 years after the declaration of closure for regular public worship takes effect, prepare a draft scheme with respect to the building closed for regular public worship providing for any of the matters mentioned in paragraph 4.
- (2) If before the end of the period of 2 years it is found to be impracticable to prepare the draft scheme before that period expires, and it seems to the Commissioners, after consulting the Board, reasonable to do so, they may, with the consent of the Bishop, postpone the preparation of the draft scheme for such minimum further period or periods as they find to be necessary.
- (3) Before preparing any such draft scheme which provides for the demolition or the care and maintenance by Manx National Heritage of the building closed for regular public worship or any part of it the Commissioners shall consult Manx National Heritage.
- (4) If they decide to proceed with the draft scheme, the Commissioners shall serve a copy of the draft scheme on —
  - (a) the Board;
  - (b) the Department of Infrastructure;
  - (c) the local authority for the district in which the building is situated;
  - (d) the Commonwealth War Graves Commission; and
  - (e) Manx National Heritage.



- (5) The Commissioners shall also publish in one or more local newspapers a notice —
  - (a) stating the effect of the draft scheme,
  - (b) naming a place or places in the Island where a copy of it may be inspected, and
  - (c) stating that written representations with respect to the draft scheme may be made to the Commissioners not later than a date specified in the notice, being a date not less than 28 days after the first publication of the notice.
- (6) The Commissioners shall consider any representations duly made with respect to the draft scheme and any unforeseen change of circumstances affecting its implementation, and may decide not to proceed with it or to amend it or to proceed with it in its original form.
- (7) The Commissioners may, if they think fit, afford an opportunity to any person, whether he has made written representations or not, to make oral representations with respect to the draft scheme.
- (8) The Commissioners may, before or after the period within which written representations may be made under this paragraph, extend that period, and any representations made within the period so extended shall be treated as duly made.
- (9) The Commissioners may at any time make such amendments to the draft scheme as may appear to them to be necessary for the purposes of correcting any drafting mistake or omission.
- (10) If the Commissioners decide to proceed with the draft scheme, they shall make the scheme under their common seal, with such amendments (if any) as they may have made in it.
- (11) If the Commissioners decide in accordance with sub-paragraph (6) not to proceed with a draft scheme, they shall as soon as possible prepare a new draft scheme, and sub-paragraphs (2) to (10) apply.
- (12) Paragraphs 6(2)(e) and (4) and 7 of Schedule 2 apply, with the necessary modifications, to schemes under this paragraph as they apply to pastoral schemes.

**6. Disposal schemes in respect of churches closed or demolished otherwise than under this Measure**

- (1) Where any church or part of a church has at any time been demolished otherwise than under this Part, a disposal scheme providing for all or any of the matters mentioned in paragraph 4(4) may, at any time after the demolition, be prepared and made in accordance with paragraph 5(3) to (10), and paragraph 5(12) applies.
- (2) Subject to sub-paragraph (4), where by virtue of sub-paragraph (1) a disposal scheme provides for any of the matters mentioned in paragraph 4(4)(a), paragraph 4(5) applies in relation to —
  - (a) the proceeds and net proceeds of any sale or exchange, and
  - (b) the premiums and net premiums on any lease,of the site or part of the site of the church or part of the church to which the scheme applies as it applies where a disposal scheme which provides for the demolition of a building closed for regular public worship also provides for any of those matters.
- (3) Where the Commissioners are satisfied that a new church or place of worship is to be provided in the area of the benefice in which a demolished church was situated, to take the place of the demolished church, the net proceeds and the net premiums shall be applied in accordance with paragraph 1(2)(c).

**7. Compulsory purchase of church**

- (1) This paragraph applies where a church, other than a church which has been declared closed for regular public worship, is purchased compulsorily or is purchased by agreement under an enactment conferring powers of compulsory purchase.
- (2) For the purpose of any enactment applying to the disposal of sums paid to the Board in respect of —

- (a) the purchase of the church or any land annexed or belonging to it, or
- (b) compensation for damage to other ecclesiastical property arising in connection with the purchase,

the provisions of this Part relating to the disposal of the proceeds of sale of a building closed for regular public worship or any land annexed or belonging to a building closed for regular public worship shall not be applicable.

**8. Amendment of disposal schemes etc.**

- (1) A disposal scheme, and any provisions of a pastoral scheme made under paragraph 1 or 2, may be amended by a subsequent disposal scheme prepared and made in accordance with paragraph 5(3) to (10), and paragraph 5(12) shall apply.
- (2) An amending disposal scheme may —
  - (a) revoke all or any provisions of the previous disposal scheme or any such provisions of a pastoral scheme, as the case may be,
  - (b) substitute or add other provisions providing for any of the matters mentioned in paragraph 4, so far as applicable, and
  - (c) contain such transitional provisions as the Commissioners think necessary or expedient in consequence of the changes made by the amending scheme.
- (3) A disposal scheme or any provision of it, and any provision of a pastoral scheme made under paragraph 1 or 2, may be amended or revoked under this paragraph before it comes into operation.

**9. Restoration of building closed for regular public worship to use as church building**

- (1) A pastoral scheme may provide that a building closed for regular public worship or part of such a building which is vested in the Board shall be restored to use as a church or part of a church.
- (2) Such a scheme may further provide—
  - (a) for designating the church as a parish church or chapel of ease;
  - (b) for vesting the building or part, with or without any land vested with the building or part, in the incumbent of the benefice in the area of which, and the churchwardens of the parish in which, it is situated, or in such other person as may be specified in the scheme;
  - (c) for such transitional, supplementary or consequential matters as the Commissioners think necessary or expedient;
  - (d) for revoking the declaration of closure for regular public worship and revoking or amending any provisions, whether in a pastoral scheme or disposal scheme, made under this Schedule in relation to the building or part of the building closed for regular public worship.

**10. Vesting of property**

- (1) Where a pastoral scheme or disposal scheme contains a provision described in column 1 of the following table relating to any property, the corresponding provision in column 2 shall have effect in relation to that property.

*Provision contained in scheme*

*Provision having effect in relation to property*

(1) Provision under paragraph 1 or 4 for the demolition of the building closed for regular public worship or any part of it

The building or part and any land which under the scheme is to be sold, given, exchanged or let with the site of the demolished building or part shall vest in the Board on the relevant date.

(2) Provision under paragraph 1, 2 or 4 empowering the Board to sell, give or exchange —

The building or part or land shall vest in the Board on the relevant date.

- (a) the building closed for regular public worship, or
- (b) any part of it or any land annexed or belonging to the building or the church of which it forms part,
- for a use or uses specified or described in the scheme
- (3) Provision under paragraph 1, 2 or 4 for land annexed or belonging to a building closed for regular public worship to be appropriated to use as the site for a parsonage house or part of the house or as parsonage land
- (4) Provision under paragraph 1, 2 or 4 for land annexed or belonging to a building closed for regular public worship or the whole or part of the site of a demolished building or land annexed or belonging to it to be appropriated for any ecclesiastical purposes of the parish
- (5) Provision under paragraph 1, 2 or 4 for the use, holding, letting or licensing by the Board of —
- (a) the building closed for regular public worship or any part of it, or
- (b) any land annexed or belonging to the building or the church of which it forms part,
- for a use or uses specified or described in the scheme
- (6) Provision under paragraph 1, 2 or 4 for appropriating any land to use as part of a churchyard or burial ground
- (7) Provision under paragraph 2 or 4 for the care and maintenance by Manx National Heritage of —
- (a) a building closed for regular public worship or any part of it, or
- (b) any land annexed or belonging to the building or the church of which it forms part
- (8) Provision under paragraph 4 for transferring to the Board responsibility for the care and maintenance of any land annexed or belonging to a building closed for regular public worship or the church of which it forms part
- (2) In the table in sub-paragraph (1) "the relevant date" means the date when the relevant provisions of the scheme come into operation.
- Where the land is situated in the area of a benefice the incumbent of which is not subject to Common Tenure, it shall on the relevant date vest in the incumbent of that benefice.
- Where the land is situated in the area of a benefice the incumbent of which is subject to Common Tenure or which is vacant, it shall on the relevant date vest in the Board.
- The land or site shall on the relevant date vest in the Board to be held on trust for the parochial church council for that parish to be used for those purposes
- Where the building or part or land is not on the relevant date vested in the Board, it shall vest in the Board on that date.
- The land shall on the relevant date vest in the person in whom the churchyard or burial ground is vested
- The building or part or land shall on the relevant date vest in Manx National Heritage.
- The land shall on the relevant date vest in the Board.

- (3) The body in whom any property vests under this paragraph or paragraph 3(1) shall be treated as having an interest, for the purposes of faculty proceedings, in any other property so vested or any property formerly annexed or belonging to or held with property so vested.
- (4) Any property vested in Manx National Heritage under this paragraph shall be treated as trust property for the purposes of the Manx Museum and National Trust Act 1959<sup>19</sup>.
- (5) This paragraph is without prejudice to any other power of Manx National Heritage to acquire land.

#### **11. Compensation for loss of burial rights**

- (1) Any person entitled to burial rights in property vesting in any person under paragraph 3(1) or 10 may claim compensation in respect of the loss of the rights, and in default of agreement any such claim shall be referred to and determined by the consistory court of the diocese.
- (2) The amount of any compensation so awarded shall be paid by the Board, and the payment shall be treated as money expended on the property for the purpose of furthering its disposal or use.

#### **12. Rights of way and other easements**

- (1) Where any land annexed or belonging to a church the whole or part of which is a building closed for regular public worship does not vest by virtue of this Measure in the Board or Manx National Heritage, the disposal scheme or (in a case to which paragraph 1 or 2 applies) the pastoral scheme may provide for conferring on any of the bodies in whom the building or the site of the building or any part of the building or site or any other land annexed or belonging to the church vests, such rights of way or other easements over or in the land not so vesting as appear to the Commissioners to be necessary—
  - (a) to enable any property so vesting to be used for a use or uses specified or described in the disposal scheme, or to facilitate such use;
  - (b) to enable any property so vesting which is to be sold, given, exchanged or let by the Board (otherwise than for any such use), to be used for such purposes as appear to the Commissioners to be reasonable, or to facilitate such use; or
  - (c) to enable Manx National Heritage to perform its functions with respect to any property so vesting in it, including the giving of reasonable access to members of the public.
- (2) Where —
  - (a) rights of way over land adjoining or adjacent to a church to which or to a part of which a declaration of closure for regular public worship relates were, before the declaration took effect, enjoyed by persons attending the church, and
  - (b) the church or part vests, by virtue of this Measure, in the Board or Manx National Heritage,the said rights of way shall be enjoyed by the Board or Manx National Heritage, as the case may be, so far as is necessary for the performance of its functions and by members of the public for the purpose of visiting the church.
- (3) Where rights of way or other easements have been acquired by the Commissioners under paragraph 13 and land for the benefit of which the rights were acquired vests in Manx National Heritage by virtue of this Measure, those rights shall also vest in Manx National Heritage.

#### **13. Acquisition of rights of way and other easements**

Where the Commissioners consider that it is necessary or appropriate that any right of way or other easement be acquired for the benefit of land which —

- (a) is to be disposed of by the Board under this Measure, or

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<sup>19</sup> XVIII p.1106

(b) has vested or is to vest in Manx National Heritage by virtue of this Measure, the Board or Manx National Heritage, as the case may be, may acquire the right of way or easement in question.

**14. Removal of legal effects of consecration of buildings and land**

- (1) Sub-paragraph (2) applies where any consecrated building or part of a building or land is—
  - (a) vested in the Board under paragraph 10,
  - (b) appropriated to a use or uses specified or described in a disposal scheme or a pastoral scheme to which paragraph 1 or 2 applies, or
  - (c) vested in the Board in pursuance of a disposal scheme.
- (2) Unless the scheme otherwise provides—
  - (a) the building or part of a building or land shall not be subject to the legal effects of consecration; and
  - (b) in particular, the jurisdiction of any court or person with respect to the granting of faculties shall cease to extend to the building or part of a building or land.
- (3) Where any consecrated building or part of a building or land is vested in Manx National Heritage under paragraph 10, the jurisdiction under referred to in sub-paragraph (2)(b) shall cease to extend to it, and accordingly any works or alterations may be carried out in or in relation to the building or part of a building or land without the need for a faculty, but subject to that it shall continue to be subject to the legal effects of consecration..
- (4) If any building or part of a building or land to which sub-paragraph (2) or (3) applies is subsequently restored to its former use or is appropriated to another use for which consecration would be required, that sub-paragraph shall cease to apply.

**15. Power to impose and enforce covenants**

- (1) Without prejudice to any restriction or requirement in a disposal scheme or a pastoral scheme to which paragraph 1 or 2, the Board may, in exercising its powers under this Schedule to sell, give, exchange, let or license any building or land, include in the conveyance, lease or other instrument such covenants imposing conditions and requirements as to the use of the building or land concerned as the Board think necessary or expedient to give effect to the provisions of the scheme or otherwise to secure the suitable use of the building or land.
- (2) In a case where the land is sold, given or exchanged, any such covenants shall be enforceable as if the Board were the owners of adjacent land and the covenants were expressed to be entered into for the benefit of that adjacent land, and in the case of covenants of a positive character as if they were negative.
- (3) Where any such covenant is subsequently varied or released by agreement, paragraph 4(5) shall apply in relation to any sum of money received by the Board in consideration of the variation or release of the covenant.
- (4) Section 1 of the Conveyancing Act 1983<sup>20</sup> (which enables the High Court to discharge or modify restrictions affecting land) shall not apply in relation to conditions and requirements imposed under sub-paragraph (1).

**16. Disposal of font, communion table and plate, and other contents**

- (1) Where a pastoral scheme or disposal scheme makes provision for a church or part of a church to be demolished or appropriated to any use specified or described in the scheme, the Bishop shall, unless the scheme makes other provision, give directions as to how the font, communion table and plate used for the purpose of Holy Communion shall be dealt with.

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<sup>20</sup> 1983 c.17

- (2) If the church or part is so demolished or appropriated before any such directions are given or fully implemented, the Board shall, subject to any provision of the scheme, be responsible for the care, maintenance and safeguarding of any such items.
- (3) In a case to which sub-paragraph (1) applies, the scheme may also make provision with respect to the disposal of any other contents of the church, not being tombstones, monuments or memorials commemorating deceased persons buried in the church or in any land belonging or annexed to the church.
- (4) Where any items are disposed of in accordance with sub-paragraph (1) or (3) the Bishop shall, subject to any provision of the scheme, give directions as to how any proceeds of their sale are to be applied.
- (5) Where —
  - (a) a disposal scheme or a pastoral scheme to which paragraph 2 applies provides for the care and maintenance of a church or part of a church by Manx National Heritage, or
  - (b) a disposal scheme provides for a church or part of a church to remain vested in the Board,the scheme may also provide for —
  - (i) the vesting in and the care and maintenance by Manx National Heritage or the Board, as the case may be, of any of the contents of the church, or
  - (ii) the disposal of any of the contents other than any tombstones, monuments or memorials as are referred to in sub-paragraph (3).
- (6) No faculty shall be required for anything done in pursuance of this paragraph.

**17. Trusts for the repair etc. of buildings closed for regular public worship and contents**

- (1) If and so long as a building closed for regular public worship or part of it is vested in —
  - (a) the Board pending the making or in pursuance of a disposal scheme;
  - (b) Manx National Heritage in pursuance of a disposal scheme or a pastoral scheme to which paragraph 2 applies; or
  - (c) the Board for use or uses specified or described in a pastoral scheme or disposal scheme;any property of a charity the purposes of which include the repair and maintenance of the building or the provision or maintenance of ornaments or other contents of the building shall, subject to sub-paragraph (2), continue to be applicable for that purpose.
- (2) Any such property —
  - (a) in the case mentioned in sub-paragraph (1)(c), it shall only be so applicable if the scheme so provides; and
  - (b) if the building closed for regular public worship consists of part of a church or only part of the building is vested, it shall only be so applicable if and to the extent that the scheme so provides.
- (3) If and so long as —
  - (a) any land annexed or belonging to a building closed for regular public worship is vested in —
    - (i) the Board in pursuance of a disposal scheme, or
    - (ii) Manx National Heritage in pursuance of a disposal scheme or a pastoral scheme to which paragraph 2 applies, and
  - (b) that land comprises a churchyard,any property of a charity the purposes of which include the maintenance of the churchyard shall, subject to sub-paragraph (4), continue to be applicable for that purpose.
- (4) If part only of the churchyard is so vested, the property shall only be so applicable if and to the extent that the scheme so provides.

- (5) Nothing in sub-paragraphs (1) and (2) affects the powers of the Board under Schedule 3 to the Church Act 1992 to make schemes in respect of any such charity..
- (6) Where —
- (a) the purposes of a charity include the giving of sermons or lectures in any church, and
  - (b) by reason of a declaration of closure for regular public worship relating to the church or a part of it, the sermons or lectures cannot be given in that church,
- they shall be given in the parish church of the parish in which the church is situated, or in such other church as the Bishop may direct in an instrument under seal with the approval of the Attorney General.

**18. Transfer of churches closed for regular public worship**

- (1) Despite anything in this Schedule, where a building closed for regular public worship or any part of such a building is vested in the Board, whether in pursuance of a pastoral scheme or a disposal scheme or pending the making of a disposal scheme, the Board may, with the approval of the Bishop and the Commissioners, enter into and carry out an agreement with Manx National Heritage for the acquisition and preservation by Manx National Heritage of the building or part, with or without other land so vested in the Board.
- (2) On any such acquisition this Part, except so far as it is applied by sub-paragraphs (3) and (4), and any disposal scheme made with respect to the building, or any provisions of a pastoral scheme so made by virtue of paragraph 1 or 2, shall cease to apply to the property acquired.
- (3) Where a building closed for regular public worship or part of such a building is acquired under sub-paragraph (1)—
- (a) any rights of way or other easements conferred under paragraph 12(1) and any rights of way enjoyed under paragraph 12(2) shall vest in Manx National Heritage or be enjoyed by it for the performance of its functions in relation to the property or for giving reasonable access to the public;
  - (b) section 38(b) and paragraphs 11, 14(2) and 16(1) to (3) shall apply as they apply to buildings or parts of buildings and land vested in Manx National Heritage;
  - (c) section 21(1) shall not apply to a disposal to Manx National Heritage.
- (4) A pastoral scheme may make provision under paragraph 9, with the consent of Manx National Heritage, for —
- (a) restoring to use as a church or part of a church any building closed for regular public worship or part of such a building acquired by Manx National Heritage under this paragraph, and
  - (b) any of the other matters specified in paragraph 9.
- (6) Where —
- (a) either —
    - (i) a building closed for regular public worship or any part of such a building is acquired by Manx National Heritage under this paragraph, or
    - (ii) an agreement for such an acquisition has been made, and
  - (b) any land previously annexed or belonging to the building is vested in the incumbent of the benefice in the area in which the building is situated, whether alone or jointly with churchwardens,
- the incumbent or incumbent and churchwardens may, with the approval of the Bishop and the Commissioners, enter into and carry out an agreement with Manx National Heritage for the acquisition of the land by Manx National Heritage and for its maintenance with the building or part of the building.
- (7) Sub-paragraph (3) shall apply in relation to any land acquired under sub-paragraph (6) as it applies in relation to a building closed for regular public worship or part of such a building acquired under sub-paragraph (1).

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- (8) An agreement under this paragraph may provide for the acquisition and preservation by Manx National Heritage of any of the contents of the building closed for regular public worship or a part of such a building, and on such an acquisition —
  - (a) paragraph 17(1) shall apply to the contents as they apply to the contents of a building or part vested in Manx National Heritage as mentioned in paragraph 17(1)(c), but
  - (b) otherwise this Schedule and any disposal scheme or pastoral scheme relating to the contents shall cease to apply to the contents so acquired.



Section 21

SCHEDULE 4

DISPOSAL OF HUMAN REMAINS

**1. Interpretation**

In this Schedule —

"the Commission" means the Commonwealth War Graves Commission;

"commonwealth war burial" means a burial of any member of the forces of His Majesty fallen in the war of 1914-1921 or in the war of 1939-1947;

"the Department" means the Department of Environment, Food and Agriculture;

"the landowner" means the body or person in whom the building, part of a building or land in question is vested or to whom it is leased or licensed.

**2. Notice of proposed removal**

The landowner shall, before removing any human remains or any tombstones, monuments or memorials commemorating the deceased persons—

- (a) publish in a local newspaper a notice of intention to do so at least once during each of 2 successive weeks; and
- (b) display a like notice in a conspicuous place where the remains are interred; and
- (c) serve a like notice on the Bishop and on the Commission; and
- (d) if the remains were interred within twenty-five years before the date of the first publication of the notice, serve a like notice on the personal representatives or next of kin (or, in the event of their being untraceable, any known relative) of the deceased person.

**3. Contents of notice**

Any notice required to be published and served under paragraph 2 shall contain—

- (a) the address at which particulars of the deceased persons and of any tombstones, monuments or other memorials commemorating them may be inspected;
- (b) the name of the burial ground or crematorium where it is proposed to reinter or cremate such remains and the manner in which it is proposed to dispose of such tombstones, monuments or other memorials;
- (c) a statement as to the right of the personal representatives or relatives of any deceased person or, in relation to any commonwealth war burial, the Commission on notice in writing given within a specified time themselves to undertake the removal and reinterment or cremation of the remains of the deceased, and the disposal of any tombstones, monument or other memorial commemorating the deceased within 2 months from the date of the notice;
- (d) a statement of —
  - (i) any directions given by the Department with respect to the removal and reinterment or cremation of human remains, and
  - (ii) any requirements imposed by the Bishop with respect to the manner of removal, the place and manner of reinterment or cremation, and the disposal of tombstones, monuments and other memorials;
- (e) a statement as to the extent to which the landowner is required by this Schedule to defray the expenses of such removal and reinterment or cremation or disposal.

**4. Removal of remains and memorials by relatives etc.**

- (1) The personal representatives or relatives of any deceased person whose remains are interred in the land or, in the case of any commonwealth war burial, the Commission may —
  - (a) on giving the required notice, themselves remove and reinter any such remains or cremate them in any crematorium, and
  - (b) dispose of any tombstone, monument or other memorial commemorating the deceased, and the landowner shall defray the reasonable cost of the removal and reinterment or cremation or disposal; and if any question arises as to what is a reasonable sum for that purpose the decision of the Commissioners shall be conclusive.
- (2) If the removal and reinterment or cremation or disposal, as the case may be, has not been carried out by the personal representatives or relatives or the Commission in accordance with the provisions of this Schedule within 2 months from the date of the required notice, the landowner may carry out the removal and reinterment or cremation or disposal as if the required notice had not been given.

**5. Removal of remains by landowner**

If any human remains interred in the building or land which have not been removed and reinterred or cremated by the personal representatives or relatives of the deceased person or the Commission within the 2 month period mentioned in paragraph 4(2) —

- (a) the remains shall, on removal by the landowner, be reinterred in such land as may be indicated as being reasonably available for the purpose by the Bishop, and
- (b) failing any such land being so indicated, they shall be reinterred in any cemetery or burial ground or cremated in any crematorium.

**6. Removal and re-erection of memorials**

Any tombstone, monument or other memorial commemorating any deceased person whose remains are reinterred or cremated in accordance with paragraph 5 may, where reasonably practicable, be removed and re-erected by the landowner over the grave in the burial ground where the remains are reinterred or on some other appropriate site.

**7. Reinstatement of memorials**

Any tombstone, monument or other memorial not disposed of in accordance with paragraph 4 or 6 may, with the agreement of the Bishop given after consultation with the advisory committee, be allowed to remain where it is or be removed and re-erected in such place in the building or land as the Bishop may direct.

**8. Directions of Department as to removal and disposal of remains**

The removal of all human remains shall be effected, and the remains reinterred or cremated, in accordance with the directions of the Department.

**9. Record of removal of remains**

Upon any removal of remains a certificate of removal and reinterment or cremation shall be sent to the Chief Registrar by the landowner —

- (a) giving the dates of removal and reinterment or cremation respectively, and
- (b) identifying the place from which the remains were removed and the place in which they were reinterred or cremated,

showing the particulars of each removal separately, and every such certificate shall be deposited at the General Registry with the registers of deaths in the custody of the Chief Registrar.

**10. Disposal of memorials**

Any tombstone, monument or other memorial not disposed of in accordance with this Schedule shall be offered by the landowner to the Bishop for disposal as he thinks fit, and the Bishop shall consult the advisory committee with respect to the disposal and if the tombstone, monument or other memorial is not accepted by the Bishop for preservation it shall be broken and defaced before being otherwise disposed of.

**11. Record of removal of memorials**

Where any tombstone, monument or other memorial is removed from the land, the landowner shall within 2 months from the date of removal—

- (a) deposit in the Manx Museum a record of the removal with sufficient particulars to identify the memorial (including a copy of any inscription on it) and showing the date and manner of its removal and disposal and the place (if any) to which it is transferred;
- (b) send to the Chief Registrar a copy of the record for deposit with the registers of deaths in the custody of the Chief Registrar.

**12. Conditions imposed by Bishop**

The requirements of this Schedule shall be in addition to such reasonable conditions if any as may be imposed in the case of consecrated ground by the Bishop with respect to —

- (a) the manner of removal and the place and manner of reinterment or cremation of any human remains, and
- (b) the disposal of any tombstones, monuments or other memorials,

and any such conditions shall be complied with as if they formed part of this Schedule.

Section 30(5)

SCHEDULE 5

SEQUESTRATION OF BENEFICE PROPERTY DURING SUSPENSION PERIOD

**1. Additional powers of sequestrators**

During any suspension period the sequestrators in addition to exercising any powers vested in them by the general law relating to sequestrations, may, with the consent of the Bishop, exercise in relation to any property of the benefice any other power which an incumbent would have if the benefice were full, not being a power which by the provisions of any Act or Measure is exercisable during a vacancy by the Bishop, the Board or the Commissioners.

**2. Application of income of benefice**

- (1) Notwithstanding anything to the contrary contained in any Act or Measure, the sequestrators, subject to sub-paragraph (2), apply the income of the benefice accruing during the vacancy—
  - (a) in payment to the Bishop of all expenses incurred by him under sections 29 and 30;
  - (b) in payment of all expenses properly incurred in the collection of the income of the benefice;
  - (c) in payment of all expenses incurred in making provision for the performance of the ecclesiastical duties of the benefice, including that of accommodation;
  - (d) in payment of all expenses properly incurred in the exercise of the powers or the performance of the duties by law belonging to sequestrators or conferred or imposed on them by this Measure, including the payment of any sequestrator who is professionally qualified his proper professional charges for work undertaken by him or her;
  - (e) in payment of the stipend and expenses of accommodation of an assistant curate.
- (2) During the course of the suspension period the sequestrators may with the consent of the Bishop, and shall, on the direction of the Bishop, pay part of the balance in their hands to the Board.
- (3) At the close of the sequestration the sequestrators shall pay the balance in their hands, as certified by the Bishop or some person duly authorised by him, to the Board.

**3. Application of money received by Board**

Money received by the Board from the sequestrators under paragraph 2(2) or (3) shall be allocated to the income account of the diocesan stipends fund.

**4. Suspension following a vacancy**

Where a suspension period immediately follows a period during which a benefice has been vacant whether or not a further suspension period is declared, paragraphs 1 to 3 shall apply to any balance in the hands of the sequestrators at the beginning of the first suspension period as if it were income of the benefice accruing during that period.

**5. Sequestrators' accounts**

The sequestrators shall annually at such date as the Bishop may direct and as soon as possible after the close of the sequestration render to the Bishop duly audited income and expenditure accounts and shall furnish such information with respect to those accounts as the Bishop may require.

**6. Further sequestration**

Where, on the termination of a suspension period in respect of any benefice, there follows, whether immediately or after an interval, a further period during which the profits of the

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benefice are sequestrated, the original suspension period shall, for the purposes of this Schedule, be treated as extending to and including that further period.

Section 37.

SCHEDULE 6

COMPENSATION OF CLERGY

**1. Compensation for loss of office**

The following —

- (a) the incumbent of a benefice dissolved by a pastoral scheme or vacated by virtue of section 15, and
- (b) the holder of any other ecclesiastical office who is subject to Common Tenure whose office is abolished by or as the result of a pastoral scheme,

shall be entitled to compensation for any loss suffered by him or her in consequence of the dissolution or vacation of the benefice or the abolition of the office, as the case may be.

**2. Compensation on resignation**

If the incumbent of any benefice or the holder of any other ecclesiastical office who is subject to Common Tenure agrees with the Commissioners that, if he or she resigns his or her benefice or office in order to enable a pastoral scheme to come into operation or to facilitate its coming into operation, compensation will be payable for any loss suffered by him or her in consequence of his or her resignation, he or she shall be entitled, on resignation after the making of the scheme, to compensation for any such loss.

**3. Loss of accommodation**

Without prejudice to the generality of paragraphs 1 and 2, the loss suffered by any such incumbent or office holder shall include —

- (a) loss arising from his or her ceasing to occupy the parsonage house or other official residence of the incumbent or office holder, and
- (b) any expenses arising from his or her change of residence.

**4. Determination of compensation**

The right to and the amount of compensation payable under this Schedule shall be determined in the first instance by the Board, but the person claiming the compensation (hereinafter called the claimant") shall have a right of appeal to the Appeal Tribunal constituted under this Schedule.

**5. Nature of compensation**

- (1) The compensation shall consist of periodical payments or a lump sum payment, or partly of one and partly of the other, and compensation in the form of periodical payments shall not be assignable.
- (2) The Board may, pending the final determination of a claim for compensation, make payments on account to the claimant.

**6. Matters to be taken into account**

In determining whether any claimant has suffered loss giving a right to compensation and, if so, the amount of it, the Board and the Appeal Tribunal—

- (a) shall take into account the emoluments of any ecclesiastical office (including another benefice) to which the claimant has been or is to be appointed, or of any other regular remunerated employment in which he or she is or is to be engaged; and
- (b) if he or she refuses without good and sufficient reason to accept an ecclesiastical office which in the opinion of the Board or Tribunal is reasonably comparable to the benefice

or office in respect of which the compensation is claimed, may take into account the emoluments of the office so refused.

**7. Suspension of periodical payments**

If any person who is receiving compensation under this Schedule in the form of periodical payments is appointed to any ecclesiastical office or becomes engaged in any remunerated employment, or refuses any such office as is mentioned in paragraph 6(b), the Board may suspend the periodical payments or reduce the amount of the payments, having regard to the emoluments of the office, but the person affected shall have a right of appeal to the Appeal Tribunal.

**8. Change of circumstances**

- (1) Any person who has been refused compensation under this Schedule or is receiving or has received compensation may apply to the Board for a grant or renewal of the compensation or, as the case may be, an increase of the compensation (whether by way of an increase of periodical payments or a lump sum payment or both), on the ground that circumstances of which account was taken under paragraph 6 or 7 have materially altered to his or her disadvantage.
- (2) On an application under sub-paragraph (1) the Board may grant or renew the compensation or make an increase on that ground.
- (3) An appeal shall lie to the Appeal Tribunal against the refusal of any such application.

**9. Refusal of claim**

If any person who is claiming or receiving or has received compensation under this Schedule—

- (a) executes a deed of relinquishment under the Clerical Disabilities Act 1870<sup>21</sup>; or
- (b) becomes a member of a religious body which is not in communion with the Church of England; or
- (c) becomes disqualified under the Ecclesiastical Jurisdiction Measures 1963 and 1974 from holding preferment in the Church of England; or
- (e) has had imposed on him or her under the Clergy Discipline Measure 2003<sup>22</sup> a penalty of removal from office, prohibition for life or for a limited period or revocation of his or her licence or has resigned,

the Commissioners may refuse the claim or, as the case may be, may order, subject to a right of appeal to the Appeal Tribunal, that no further payment of compensation shall be made to him or her under this Schedule.

**10. Notification of change of circumstances etc.**

- (1) It is the duty of —
  - (a) every claimant,
  - (b) every applicant under paragraph 8, and
  - (c) every person who is receiving compensation under this Schedule by way of periodical payments,to disclose to the Board —
  - (i) any ecclesiastical office to which he or she has been appointed or which has been offered to him or her,
  - (ii) any other remunerated employment in which he or she is or is to be engaged, and

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<sup>21</sup> 33 & 34 Vict. c.91

<sup>22</sup> 2003 No.3

- (iii) any such matter as is mentioned in paragraph 9.
- (2) If —
  - (a) a person referred to in sub-paragraph (1) fails to comply with that sub-paragraph, and
  - (b) it appears to the Board that in consequence it has made payments which otherwise it would not have made or payments in excess of those that it would otherwise have made, the Board may, without prejudice to the powers under paragraph 7 or 9, direct the repayment of the amount of the payments or excess or such part of them as it thinks just.
- (3) Subject to sub-paragraph (4), an amount directed to be paid under sub-paragraph (2) is recoverable as a debt due to the Board.
- (4) An appeal lies to the Appeal Tribunal against a direction under sub-paragraph (2).

#### **11. Extension of pension provisions**

Paragraph 11 of Schedule 4 to the Mission and Pastoral Measure 2011<sup>23</sup> shall extend to the Island subject to the modification that —

- (a) references to any provision of that Measure (except that paragraph) shall be construed as references to the corresponding provision of this Measure; and
- (b) references to the mission and pastoral committee shall be construed as references to the Commissioners.

#### **12. Exercise of Board's functions**

- (1) The functions of the Board under this Schedule must not be delegated to a committee.
- (2) At any meeting of the Board at which a determination or decision under this Schedule is made or at which the person affected by such a determination or decision is interviewed, the members present must include the Bishop.

#### **13. Appeal Tribunal**

- (1) For the purposes of this Schedule there is an Appeal Tribunal, constituted as follows —
  - (a) the Vicar General of the diocese is the chairman;
  - (b) a panel of 5 persons shall be appointed by the house of clergy of the Diocesan Synod from among the members of that house in accordance with the standing orders of the Synod, and 2 persons from the panel shall be nominated by the Vicar General for each appeal;
  - (c) a panel of 5 persons shall be appointed by the house of laity of the Diocesan Synod from among the members of that house in accordance with the standing orders of the Synod, and 2 persons from the panel shall be nominated by the Vicar General for each appeal.
- (2) Subject to sub-paragraph (3), the persons appointed by the house of clergy and the house of laity shall be appointed for the term of 3 years during which the parochial representatives of the laity in the house of laity hold office under the Church Representation Rules, and on a casual vacancy another member of the house concerned shall be appointed in his place, in such manner as the house concerned may determine, for the remainder of that term.
- (3) The persons so appointed shall, at the end of that term, continue to hold their appointments until the next following sitting of the Diocesan Synod, and any such person who has heard the whole or part of an appeal may continue as a member of the Appeal Tribunal until the determination of it.
- (4) The Vicar General shall, as occasion may require, appoint a secretary to the Appeal Tribunal.
- (5) The expenses of the Appeal Tribunal in connection with an appeal shall be paid out of money standing to the credit of the diocesan pastoral account.

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<sup>23</sup> 2011 No.1



**14. Procedure**

- (1) The legislative committee of the Diocesan Synod may make rules prescribing —
  - (a) the procedure to be followed in —
    - (i) claiming and determining rights to and amounts of compensation under this Schedule, and
    - (ii) altering, terminating or suspending payments of compensation; and
  - (b) except so far as it is regulated by rules made under the Church of England (Legal Aid) Measure 1994<sup>24</sup>, the procedure in proceedings before the Appeal Tribunal and in any other proceedings under this Schedule.
- (2) Rules under sub-paragraph (1) may apply to the Island, subject to such modifications as may be specified in the rules, any rules having effect in England under paragraph 14 of Schedule 4 to the Mission and Pastoral Measure 2011.

**15. Financial provision**

Payments of compensation under this Schedule shall be made by the Board and charged either on the capital or the income account of the diocesan stipends fund, as may be determined by the Board.

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<sup>24</sup> 1994 No.3

Section 48(1)

SCHEDULE 7

TRANSITIONAL PROVISIONS

1. In this Schedule "the 1983 Measure" means the Pastoral Measure 1983<sup>25</sup>.
2. Where, on the coming into operation of this Measure —
  - (a) any action has been taken under section 3 of the 1983 Measure with a view to making recommendations for the formulation of draft proposals for a pastoral scheme or order, or
  - (b) any such proposals have been formulated, or
  - (c) any draft pastoral scheme or order has been prepared under section 5 of the 1983 Measure, or
  - (d) any draft redundancy scheme has been prepared under section 50 of the 1983 Measure, but no pastoral scheme or order, or redundancy scheme, as the case may be, has been made, the 1983 Measure shall continue to apply as if this Measure had not been passed until any such scheme or order has been made, but thereafter, any such scheme or order shall have effect as if it were a pastoral scheme or disposal scheme, as the case may be, made under this Measure.
3. Any pastoral scheme or order or redundancy scheme made, but not revoked, on the coming into operation of this Measure shall have effect as if it were a pastoral scheme or disposal scheme, as the case may be, made under this Measure.
4. Without prejudice to paragraph 3, where this Measure —
  - (a) re-enacts, with or without modification, a provision of the 1983 Measure, or
  - (b) substitutes an enactment for such a provision by way of amendment, revision or consolidation,section 16 of the Interpretation Act 1976<sup>26</sup> has effect as if this Measure had repealed that provision.
5. Section 9(4) does not affect the freehold tenure or term of office or service of any person who —
  - (a) is a member of a team in a team ministry immediately before the coming into operation of that provision; or
  - (b) has been designated as the rector in a team ministry by a pastoral scheme before the coming into operation of that provision;but otherwise section 9 has effect despite any provision to the contrary in a pastoral scheme or order.

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<sup>25</sup> 1983 No.1

<sup>26</sup> 1976 c.20

Section 48(2)

SCHEDULE 8

AMENDMENT OF ENACTMENTS

**1. Ecclesiastical Residences and Dilapidations Act 1879 (V p.14)**

In section 19, for "each rural dean" substitute "the archdeacon".

**2. Church Act 1987 (c.12)**

In section 1 —

(a) for subsection (3) substitute —

"(3) Section 5 shall be omitted.";

(b) in subsection (5)(a), after "subsection (1)," insert "the words "and deanery" shall be omitted, and".

**3. Church Act 1992 (c.5)**

(1) In section 8(1)(e), for "Pastoral Measure 1983" substitute "Mission and Pastoral Measure (Isle of Man) 2012".

(2) In paragraph 8 of Schedule 2 —

(a) in the heading and sub-paragraph (1), for "Pastoral Measure 1983" substitute "Mission and Pastoral Measure (Isle of Man) 2012";

(b) in sub-paragraph (2), for "section 56(2)" substitute "section 19(2)".

(3) In paragraph 2(1)(c) of Schedule 3, at the end insert "(including the appointment of a new or additional trustee)".

**4. Church (Miscellaneous Provisions) Measure (Isle of Man) 1990 (GC 3/91)**

(1) Schedule 2 (which modifies the Churchwardens (Appointment and Resignation) Measure 1964<sup>27</sup>) is amended as follows.

(2) In paragraph 1, for the substituted section 1(1) of the 1964 Measure substitute —

"(1) There shall be such number of churchwardens of each parish as is specified in a scheme made by the Church Commissioners for the Isle of Man.

(1A) A scheme under subsection (1) shall provide that there shall be —

(a) at least 4 churchwardens of every parish in which a parish burial ground is situated;  
and

(b) at least 2 churchwardens of every other parish.

In this subsection "parish burial ground" has the same meaning as in the Burials Act 1986<sup>28</sup>, except that it does not include the churchyard of St George's Church, Douglas.

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

(3) In paragraph 2(2), in the inserted section 2(1A), for "ancient parish" substitute "parish referred to in section 1(1A)(a)".

(4) In paragraph 9, in the substituted section 13, omit the definition of "ancient parish".

(5) Omit paragraph 12.

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<sup>27</sup> 1964 No.3

<sup>28</sup> 1986 c.26

**5. Church (Miscellaneous Provisions) Measure (Isle of Man) 1993 (SD 496/93)**

In the Schedule, in paragraph 1(2), at the end insert "; and in the definition of "minister", omit paragraph (b)".

**6. Incumbents (Disability) Measure (Isle of Man) 1995 (SD 260/95)**

- (1) In section 2(2) —
  - (a) in paragraph (a), for "paragraph 15(1)(b) of Schedule 4 to the Pastoral Measure 1983" substitute "paragraph 13(1)(b) of Schedule 4 to the Mission and Pastoral Measure (Isle of Man) 2012";
  - (b) in paragraph (b), for "paragraph 15(1)(c)" substitute "paragraph 13(1)(c)".
- (2) In section 7(4), for "section 18(4) of the Pastoral Measure 1983" substitute "section 8(7) of the Mission and Pastoral Measure (Isle of Man) 2012".
- (3) In section 12(1), in the definition of "benefice", for "Pastoral Measure 1983" substitute "Mission and Pastoral Measure (Isle of Man) 2012".

**7. Patronage Measure (Isle of Man) 1997 (SD 637/97)**

- (1) The Patronage (Benefices) Measure 1986, as set out in Schedule 1, is amended as follows.
- (2) In section 2(4), in the definition of "benefice", for "Pastoral Measure 1983" substitute "Mission and Pastoral Measure (Isle of Man) 2012".
- (3) In section 7 —
  - (a) in subsection (4), for "As" substitute "Subject to subsection (5), as";
  - (b) at the end insert —

"(5) Where the Bishop gives notice to the registrar under subsection (1) or (2), he may include in it —

    - (a) a statement that he is considering whether or not to suspend the presentation to the benefice under section 29 of the Mission and Pastoral Measure (Isle of Man) 2012, and
    - (b) a direction to the registrar not to send a notice of the vacancy or impending vacancy under subsection (3) until the expiration of such period as is specified in the notice under subsection (1) or (2), not exceeding 3 months beginning with the giving of that notice;

and the registrar shall comply with the direction unless it is withdrawn before the expiration of that period."

**8. Church Records Measure (Isle of Man) 2000 (SD 533/00)**

In sections 8(3) and 25(2) and Part 1 of Schedule 1, for "Pastoral Measure 1983" substitute "Mission and Pastoral Measure (Isle of Man) 2012".

Section 48(3).

SCHEDULE 9

MODIFICATIONS OF CHURCH REPRESENTATION RULES

1. In rule 5(1), omit "Part II of".
2. In rule 9(4), after sub-paragraph (b) insert —  
    "(ba) elect parochial representatives of the laity to the mission council;"
3. In rule 10(1) and (3)(a), for " either the parochial church council" substitute "the parochial church council, the mission council".
4. In rule 11, after paragraph (10) insert —  
    "(10A) Names and addresses of parochial representatives of the laity elected to a mission council shall be sent by the secretary of the parochial church council to the secretary of the mission council."
5. In rule 12(1), omit "Part II of".
6. (1) In rule 19(1)(c), for "Part I of the Pastoral Measure 1983" substitute "Schedule 2 to the Mission and Pastoral Measure (Isle of Man) 2012".  
    (2) In rule 19(2) —
  - (a) for "any pastoral scheme or order made under paragraph 13 of Schedule 3" substitute "any pastoral scheme made under paragraph 7 of Schedule 1";
  - (b) for "Part I" substitute "Schedule 2".
- (3) In rule 19(7) —
  - (a) omit "or order";
  - (b) for "section 18(2) of the Pastoral Measure 1983" substitute "section 8(3) of the Mission and Pastoral Measure (Isle of Man) 2012".
7. (1) In rule 20(1)(c), for "Part I of the Pastoral Measure 1983" substitute "Schedule 2 to the Mission and Pastoral Measure (Isle of Man) 2012".  
    (2) In rule 20(2), for "Part I" substitute "Schedule 2".
8. In rule 21(1)(c), for "Part I of the Pastoral Measure 1983" substitute "Schedule 2 to the Mission and Pastoral Measure (Isle of Man) 2012".
9. Omit Part III.
10. In rule 30(2), omit ", every suffragan bishop of the diocese".
11. In rule 31(2), omit "Part II of".
12. In rule 33, omit the words from "the members co-opted" onwards.
13. In rule 39(7), omit "or the deanery synod", and the words from "The rural dean" onwards.
14. In rule 44(4), omit the words from "in the case" to "diocesan synod" and the words from "In any other case" to "deanery synod."
15. In rule 48(1) —
  - (a) after "parochial church council" (in the first place) insert ", mission council", and (in the second place) insert "or mission council";
  - (b) after "so elected." insert "Returns of parochial representatives of the laity elected to fill one or more casual vacancies on a mission council shall be sent by the secretary of the parochial church council to the secretary of the mission council."
16. (1) In rule 54(1) —

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- (a) omit the definition of "chapelry";
  - (b) in the definition of "minister", for paragraphs (a) and (b) substitute —
    - "(a) in relation to an ecclesiastical parish, the incumbent of the parish;"
  - (c) in the definition of "parish", omit "(excluding any part of a chapelry) or a chapelry".
- (2) Omit rule 54(1A).
17. In Appendix I, omit "or a chapelry" (in each place).
18. In Appendix III, omit the headings of Parts I and II.

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Section 48(4)

SCHEDULE 10

ENACTMENTS REPEALED

<i>Reference</i>	<i>Short title</i>	<i>Extent of repeal</i>
V p.14	Ecclesiastical Residences and Dilapidations Act 1879	In section 2, the definition of "Rural Dean", and in the definition of "Inspectors", the words "or Rural Dean".  In section 19, the words "in his deanery".  In sections 52 and 53, the words "or rural dean" (in each place).
VII p.179	Clergy Residence Act 1897	In section 9, the words "or Rural Dean".
V p.58	Church Act 1880	The whole Act.
1976 c.20	Interpretation Act 1976	In section 3, the definition of "Rural Dean".
1984 c.14	Marriage Act 1984	In section 18(4), the words from "and, where" onwards.
1987 c.12	Church Act 1987	In Schedule 1, paragraphs 18, 19, 30(1)(a) and (2) and 31.
GC 131/90	Pastoral Measure (Isle of Man) 1990	The whole Measure.
1992 c.5	Church Act 1992	Section 7(3).  In Schedule 1, paragraph 1(3)(b)(i).  In Part 1 of Schedule 4, in paragraph 1(3), the words from "and (b)" onwards.  Part 2 of Schedule 4.
SD 496/93	Church (Miscellaneous Provisions) Measure (Isle of Man) 1993	In section 1, the words "Section 14 (rural deans)".  In the Schedule, paragraph 4.
SD 260/95	Incumbents (Disability) Measure (Isle of Man) 1995	Section 12(3).  Section 16(4).
SD 715/96	Church (Miscellaneous Provisions) Measure (Isle of Man) 1996	Section 1.  In section 2, the words "section 11 (amendment of Pastoral Measure 1983)".  Schedule 1.  In Schedule 2, paragraph 4.
SD 637/97	Patronage Measure (Isle of Man) 1997	In section 3(2), the words from "and (b)" to "1983".  In Schedule 1 —  (a) section 12(9);  (b) section 23(2);  (c) paragraph 15 of Schedule 2.  In Schedule 2, Part 2.
SD 155/02	Church (Miscellaneous Provision) Measure (Isle of Man) 2002	In section 1, the words "section 12 (provisions relating to rural deans)".

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<i>Reference</i>	<i>Short title</i>	<i>Extent of repeal</i>
SD 809/09	Church (Miscellaneous Provisions) Measure (Isle of Man) 2009	In section 1, the words from "subject" to "Schedule 1", and the words from "section 8" onwards.  In section 2, the words from "section 12" onwards.  Schedule 1.  In Schedule 2, paragraph 2.  In Schedule 3, paragraph 1.
SD 192/12	Ecclesiastical Offices (Terms of Service) Measure (Isle of Man) 2012.	In the Schedule, in paragraph 11(e), the inserted section 10(4).