



Isle of Man

Ellan Vannin

SM 1 of 2012

**ECCLESIASTICAL OFFICES (TERMS OF
SERVICE) MEASURE (ISLE OF MAN) 2012**



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ECCLESIASTICAL OFFICES (TERMS OF SERVICE) MEASURE (ISLE OF MAN) 2012¹

<i>Approved by Sodor and Man Diocesan Synod:</i>	<i>16 May 2011</i>
<i>Approved by Tynwald:</i>	<i>15 October 2011</i>
<i>Received Royal Assent:</i>	<i>20 March 2012</i>
<i>Announced to Tynwald:</i>	<i>20 March 2012</i>

A MEASURE enacted pursuant to the *Church Legislation Procedure Act 1993* to extend to the Isle of Man the Ecclesiastical Offices (Terms of Service) Measure 2009.

1 Extension of the Measure to the Isle of Man

The Ecclesiastical Offices (Terms of Service) Measure 2009² shall extend to the Isle of Man subject to the modifications specified in the Schedule.

2 Consequential amendments

- (1) [Repealed]¹
- (2) [Inserted paragraph (f) in section 8(1) of the *Church Act 1992*]

3 Short title and commencement

- (1) This Measure may be cited as the Ecclesiastical Offices (Terms of Service) Measure (Isle of Man) 2012.
- (2) This Measure shall come into operation on such day or days as the Bishop may by order appoint.²

¹ SM 1 of 2012 (formerly SD 2012/0192)

² 2009 No.1

SCHEDULE

MODIFICATIONS

1 Common tenure

- (1) In section 1(1) —
 - (a) omit paragraphs (a), (c), (d) and (ii);
 - (b) in paragraphs (g) and (h), omit “of the diocese in which the office is exercised”;
 - (c) in paragraph (i), omit “(a),”.
- (2) For section 1(4) substitute —

(4)	As soon as practicable after the coming into force of this section —
(a)	the bishop shall notify the archbishop of York whether or not he agrees to the application of this Measure to him and, if so, make a declaration in writing to that effect;
(b)	the bishop shall notify, in writing, every person referred to in subsection (1)(e) and (f) above holding office on that date, requesting him or her to indicate whether or not he or she agrees to the application of this Measure to him or her and, if so, to make a declaration in writing to that effect. 22

2 Regulations

- (1) In section 2(1), for “The Archbishops’ Council” substitute “The Sodor and Man Diocesan Board of Finance (in this Measure referred to as “the Board”)”.
- (2) In section 2(2) —
 - (a) in paragraph (c), for “providers of housing to them” substitute “Board”;
 - (b) in paragraph (e), for “employment tribunals” substitute “the Employment Tribunal”.
- (3) After section 2(2) insert —

(2A)	Regulations may provide that regulations made under this section as it has effect in England shall have effect in the Isle of Man subject to such exceptions and modifications as may be prescribed by the Regulations. 22 .
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- (4) In section 2(4)—
 - (a) for “employment tribunals, the tribunals” substitute “the Employment Tribunal, that Tribunal”;
 - (b) omit the words from “and section 2” onwards.

- (5) For section 2(5) substitute —
- (5) Regulations —
- (a) shall not be made unless they have been approved in draft by the diocesan synod; and
 - (b) shall be laid before Tynwald as soon as may be after they are made;
- and if Tynwald, at the sitting at which they are laid or the next following sitting, resolves that they be annulled, they shall cease to have effect. ■.
- (6) (6) Omit section 2(6) to (8).

3 Duration of appointments

- (1) In section 3(1), omit “an archbishop or” and “of the diocese in which the post is held”.
- (2) In section 3(2), omit “diocesan”.
- (3) In section 3(3) —
- (a) in paragraph (b), after “(1975 No. 2)” insert “or section 8 of the *Church Act 1992* (an Act of Tynwald)”, and after “that Measure” insert “or section 9 of that Act”;³
 - (b) in paragraph (c), omit the words from “or reorganisation” onwards.
- (4) In section 3(4) —
- (a) for “of the diocese in which” substitute “may revoke the licence of”;
 - (b) omit “holds office may revoke the office holder’s licence to exercise the office”.
- (5) In section 3(5), for “a diocesan bishop” substitute “the bishop”.
- (6) In section 3(6), for the words from “the bishop” to “other province,” substitute “the bishop or, in the case of the bishop, the archbishop of York”.
- (7) Omit section 3(7).
- (8) For section 3(8) substitute —
- (8) Section 3, and so far as it relates thereto, section 7 of the Bishops (Retirement) Measure 1986³ (“the 1986 Measure”) shall not have effect in relation to the bishop if he is subject to Common Tenure, but, where the appointment of the bishop is terminated under subsection (6) above, the archbishop of York shall, by written

³ 1986 No.1

notice, declare the bishopric vacant as from a date specified in the notice. **22**.

- (9) In section 3(9), omit “(7) or”.
- (10) (Omit section 3(10).

4 Provision of housing for office holders

- (1) In section 4(1) —
 - (a) for “the incumbent of a benefice” substitute “an office designated under subsection (2) below”;
 - (b) for “relevant housing provider” substitute “Board”.
- (2) For section 4(2) substitute —
 - 23**(2) The Board may —
 - (a) designate a full-time office as one to which subsection (1) above does not apply; and
 - (b) revoke a designation made under paragraph (a) above.
 - (2A) A designation relating to an office may not be made or revoked under subsection (2) above without the agreement of the bishop and (unless the office is vacant) the office holder. **24**.
- (3) In section 4(4), for “relevant housing provider” substitute “Board”.
- (4) Omit section 4(7) and (8).

5 Provision of housing by Board

- (1) In the heading to section 5, omit “and other relevant housing providers”.
- (2) For section 5(1) substitute —
 - 25**(1) It shall be the duty of the Board —
 - (a) to designate a house of residence as the parsonage house for every benefice in the diocese (other than a benefice designated under section 4(2) above);
 - (b) to oversee the provision of housing for all members of the clergy holding office in the diocese (other than an office so designated); and
 - (c) to ensure that suitable housing is provided for each such member who occupies a full-time office for which he or she is entitled to receive a stipend (other than an office so designated).
 - (1A) Where a benefice is designated under section 4(2) above, any designation of a house of residence for the benefice under subsection (1)(a) above shall cease to have effect. **26**.

- (3) In section 5(2), omit “and any other relevant housing provider” and “for whom it is the relevant housing provider”.

6 Powers to acquire and dispose of houses of residence and carrying out of works

- (1) For section 6(1) substitute —

6A(1) The Board may —

- (a) acquire (including by way of gift) any land, or any interest in or over land, or any building, which it considers necessary or appropriate for the provision of a house of residence for an office holder; or
- (b) dispose of any land, or any interest in or over land, or any building which it considers is no longer required for the provision of such a house of residence.

(1A) The Board may raise money by deed of bond and security or, in the case of registered land, a charge on any land, interest or building referred to in subsection (1)(a) above for the purpose of —

- (a) acquiring the land or building or any interest in the land or building, or
- (b) defraying the cost of any works to be carried out under subsection (2) in relation to the land or building.

(1B) Schedule 2 to the *Church Act 1992* (an Act of Tynwald) shall not apply to a transaction made pursuant to subsection (1)(b) or (1A) above; and a statement in a document giving effect to a transaction that it is made pursuant to subsection (1) or (1A) above shall, if the document is sealed with the seal of the Board or is signed on behalf of the Board by a person duly authorised, be conclusive evidence of that fact. **6B**.

- (2) In section 6(2), for “Any relevant housing provider” substitute “The Board”.
- (3) In section 6(3), for “relevant housing provider” substitute “Board”.
- (4) Omit section 6(4).

7 Transactions by Board relating to houses of residence

- (1) In the heading to section 7, for “relevant housing providers” substitute “Board”.
- (2) In section 7(1) —
- (a) at the end of paragraph (b) omit “and”;

- (b) in paragraph (c), for “an archbishop or a diocesan bishop” substitute “the bishop”, and for “relevant housing provider” substitute “Board; and”;
- (c) after paragraph (c) insert —
 - ☐(d) in the case of a parsonage house of a benefice, any change in the designation of a house for that purpose under section 5(1)(a) above. ☐.
- (3) In section 7(2) —
 - (a) for “a relevant housing provider” substitute “the Board”;
 - (b) in paragraph (b), omit “of the diocese in which the house of residence or other land is situated” and “and”;
 - (c) after paragraph (b) insert —
 - ☐(ba) in the case of a parsonage house, the patron (except where the patron is the bishop) and the parochial church council of each parish in the area of the benefice or, where there is no parochial church council in existence, the churchwardens of the parish; and ☐;
 - (d) in paragraph (c), for “a diocesan bishop, the bishop’s council and standing committee” substitute “the bishop, the Governor and the standing committee of the diocesan synod”.
- (4) For section 7(4) substitute —
 - ☐(4) Before carrying out a regulated transaction to which subsection (5) below applies, the Board must obtain the consent of the Commissioners. ☐.
- (5) In section 7(5)(b), for “ a qualified surveyor” substitute “the diocesan surveyor”, and for “relevant housing provider” substitute “Board”.
- (6) In section 7(6)(a) —
 - (a) in sub-paragraph (ii), for “relevant housing provider” substitute “Board”, and omit “and”;
 - (b) after sub-paragraph (ii) insert —
 - ☐(iia) in the case of the parsonage house of a benefice, the parochial church council or any member, officer, agent or employee thereof or, as the case may be, the churchwardens of the parish; and ☐;
 - (c) in sub-paragraph (iii), omit “civil partner,” and for “(i) or (ii) above; and” substitute “(i), (ii) or (iia) above”.
- (7) Omit section 7(6)(b), (7) and (8).
- (8) After section 7(9) insert —
 - ☐(10) Where a regulated transaction is proposed to be carried out in relation to a parsonage house in any benefice the patronage or any

share of the patronage of which is vested in or exercisable by Her Majesty, the notice required to be served on the patron under subsection (2)(c) above shall be served on the Governor. 22

8 Codes of practice

For section 8 substitute —

23 Any person or body carrying out functions under this Measure or Regulations shall have regard to any Code of Practice issued under this section as it has effect in England and for the time being in force, so far as it is applicable to the Isle of Man. 22.

9 Parsonage houses

After section 8 insert —

23 8A Vesting of parsonage houses and glebe land etc.

Schedule 1A has effect with respect to the vesting of parsonage houses and glebe land in the Board, and other matters relating to parsonage houses and glebe land. 22

10 Supplementary provisions

Omit section 9(4), (7), (8) and (9).

11 Interpretation

In section 10 —

- (a) at the beginning insert “(1)”;
- (b) omit the definitions of “the 1972 Measure” and “relevant housing provider”;
- (c) for the definition of “the Board” substitute —
“**the Board**” means the Sodor and Man Diocesan Board of Finance;”;
- (d) for the definition of “the Commissioners” substitute —
“**the Commissioners**” means the Church Commissioners for the Isle of Man;”;
- (e) at the appropriate places in alphabetical order insert —
“**the bishop**” means the bishop of Sodor and Man;”;
“**diocesan surveyor**” means a person appointed by the Board to be a diocesan surveyor, being —

- (a) a person registered in the Isle of Man Register of Architects, or
- (b) a corporate member of the Chartered Institute of Building or the Royal Institution of Chartered Surveyors;”;

“**the diocesan synod**” means the Sodor and Man Diocesan Synod;”

“**the diocese**” means the diocese of Sodor and Man;”;

“**the Governor**” means the Lieutenant Governor of the Isle of Man, and includes a deputy Governor and an Acting Governor;”;

“**patron**”, in relation to any benefice, means the person or persons entitled, otherwise than by virtue of section 16 of the Patronage (Benefices) Measure 1986⁴, 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 would be entitled to present on the next or any subsequent turn.”;

(e) at the end insert —

☐(2) References in this Measure to any Measure (including this Measure) or to any provision of a Measure shall be construed as references to the Measure or provision as it has effect in the Isle of Man.

(3) References in this Measure to the coming into force of any provision of this Measure shall be construed as references to the extension of that provision to the Isle of Man

(4) [Repealed]⁴☐.

12 Amendment of enactments

(1) In section 11(1), for “Archbishops’ Council” and “Council” substitute “Board”.

(2) For section 11(2) substitute —

☐(2) Section 2(5) above applies to an Order made under subsection (1) above as it applies to Regulations. ☐.

(3) In section 11(3), for the words from the beginning to “General Synod” substitute “No Order shall be made under subsection (1) above”

(4) [Repealed]⁵

⁴ 1986 No.3

SCHEDULE


- (5) Omit section 11(5) to (11).⁶
 (6) to (8) [Repealed]⁷

13 Citation etc.

Omit section 13(2) and (3).

14 Matters relating to regulated transactions

- (1) Schedule 1 is modified as follows.
- (2) In paragraph 1(1) –
- (a) after paragraph (d) insert –
- (da) in the case of the parsonage house of a benefice, in or towards the reimbursement to the parochial church council of any parish or part of a parish within the area of the benefice of any expenses incurred 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 sale or exchange (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 expenses were incurred and the completion of the sale or exchange;²²
- (b) omit paragraph (e);
- (c) in paragraph (g), for “the capital account of the diocesan stipends fund of the diocese in which the house of residence was situated” substitute “the Diocesan Trust established by the *Church Act 1934* (an Act of Tynwald)”, and for “Diocesan Board of Finance” substitute “Board”.
- (3) After paragraph 1(1) insert –
- (1A) Any question under sub-paragraph (1)(da) above whether any works carried out to a parsonage house are works of improvement shall be referred to and determined by the Commissioners, whose decision shall be final.²²
- (4) For paragraph 2(1) and (2) substitute –
- (1) In relation to a transaction purporting to be a regulated transaction, anyone dealing with the Board, or with a person claiming under the Board, –

- (a) shall not be concerned to inquire into the purpose or the propriety of the transaction, or the sufficiency of the consideration for it; and
 - (b) shall be entitled to assume —
 - (i) that the transaction is within the powers of the Board,
 - (ii) that any consent to the transaction required by this Measure or Regulations has been given;
 - (iii) either that no objection to the transaction has been made in accordance with Regulations, or that any objection so made has been withdrawn or otherwise disposed of; and
 - (iv) that any other requirements of this Measure or Regulations have been complied with.
- (2) A statement in a document purporting to give effect to any regulated transaction —
- (a) that the transaction is a regulated transaction; and
 - (b) that either —
 - (i) any consent to the transaction required by this Measure or Regulations has been given, or
 - (ii) no such consent is required;
- shall, if the document is sealed with the seal of the Board, or signed on behalf of the Board by a person duly authorised, be conclusive evidence of those facts. 
- (5) Omit paragraph 2(3), (4) and (5).
 - (6) In paragraph 2(6), for “registry of the diocese concerned” substitute “diocesan registry”.
 - (7) In paragraph 2(7), for “Commissioners” substitute “Board”.

15 Parsonage houses and glebe land

After Schedule 1 insert —

SCHEDULE 1A

PARSONAGE HOUSES AND GLEBE LAND

1 Vesting of parsonage houses and glebe land etc.

- (1) Any parsonage house or glebe land vested in an incumbent of a benefice in right of that benefice on the coming into force of this Schedule shall, in accordance with sub-paragraph (2) below,

without any conveyance or further assurance, and freed and discharged from all previously existing trusts in favour of the benefice or of the incumbent, vest in the Board on the vesting date.

(2) The vesting date for the purposes of sub-paragraph (1) above shall be –

(a) in the case of a benefice which is vacant on the date of the coming into force of this Schedule, that date,

(b) in the case of a benefice which is not vacant on that date, the earlier of the following dates –

(i) the date on which the benefice first becomes vacant after the coming into force of this section or is deemed to become vacant on the ending of a suspension period declared under section 67 of the Pastoral Measure 1983⁵ or on the date when a restriction imposed by or under section 24 or 69 of that Measure ceases to be in force, or

(ii) the date on which this Measure applies to the incumbent by virtue of section 1(1) or 1(5) above.

(3) Subject to paragraph 6, in this Schedule –

(a) “glebe land” means land vested in the incumbent of a benefice (when the benefice is full) as part of the endowments of the benefice, other than a parsonage house;

(b) “parsonage house” means the house or other dwelling which is the official residence of the incumbent of a benefice, and includes any outbuildings or land included in the curtilage of any such house or dwelling and any rights appurtenant thereto; and

(c) “the vesting date” means the date specified in sub-paragraph (2) above.

(4) Any rule of law whereby a parsonage house or glebe land vests or is required to be vested in the incumbent of a benefice shall not apply to an incumbent who holds office under Common Tenure.

2 Rights and obligations attaching to parsonage houses and glebe land

(1) Any parsonage house or glebe land which vests in the Board under paragraph 1 above shall so vest, without any conveyance or other assurance, –

⁵ 1983 No.1

- (a) subject to, and with the benefit of, any other previously existing leases, tenancies or rights of occupation, and any covenants, conditions, agreements, easements and rights to which that parsonage house or glebe land is subject and of which it has the benefit immediately before the vesting date, and
- (b) subject to any trust or charge to which the parsonage house or glebe land is subject immediately before that date other than any trust in favour of the benefice or of the incumbent.

(2) If there is any dispute between the Board and an incumbent or sequestrators

- (a) as to the parsonage house or glebe land or any right which vests in the Board by virtue of paragraph 1 above or this paragraph, or
- (b) as to any covenant, condition, agreement, easement or right or trust or charge to which the parsonage house or glebe land was subject or of which it had the benefit immediately before the vesting date,

it shall be decided by the Commissioners, whose decision shall be final and bind both parties to the dispute and any future incumbent of the benefice.

3 Providing information to Board

(1) The Board may from time to time require the incumbent or the sequestrators of any benefice –

- (a) to provide the Board with such information relating to any parsonage house or glebe land which vests in the Board under paragraph 1 above as the Board requires to enable it to discharge its functions under this or any other Measure; and
- (b) to produce to the Board such documents in his, her or their possession, or under his, her or their control, concerning the parsonage house or glebe land as the Board may specify or describe;

and any person to whom a requirement under this sub-paragraph is directed shall comply with the requirement..

(2) The Board shall, as respects any parsonage house or glebe land which vests in the Board under paragraph 1 above and which is subject to a lease or tenancy, have the same right to require the lessee of that land to provide the Board with any information which it needs relating to that lease as the Board would have if it

were the person to whom the rent payable under the lease is for the time being payable.

4 Parsonage houses and glebe land vested in Board

- (1) Where any parsonage house has vested in the Board under paragraph 1 above, it shall (subject to sections 6 and 7 above) be held for the purpose of providing a house of residence for the benefice in question or such other benefice for which it is for the time being designated under section 5(1)(a) above.
- (2) Where any glebe land has vested in the Board under paragraph 1 above, it shall (subject to Schedule 2 to the *Church Act 1992* (an Act of Tynwald)) be held for the purpose of applying the income of it towards the payment of stipends of the clergy of the diocese.
- (3) Where any parsonage house or glebe land has vested in the Board under paragraph 1 above, the parsonage house or glebe land shall not form part of the corporate property of the Board and shall be excluded from any property of the Board which may, in the event of any insolvency proceedings against the Board, form part of the Board's assets for the purpose of those proceedings.

5 Land left or given for certain purposes to be transferred to Board

- (1) Where on or after the vesting date any land or building —
 - (a) is acquired by the incumbent of a benefice in his capacity as such (whether alone or jointly with any other person) by way of devise, bequest or gift, and
 - (b) is by the terms of the devise, bequest or gift to be —
 - (i) held on permanent trusts for the provision or augmentation of the stipend of the incumbent; or
 - (ii) used for, or for the extension of, a house of residence for the incumbent,

the incumbent, or the incumbent and that other person, as the case may be, shall transfer or convey the property to the Board to be held by the Board as if it had vested in the Board under paragraph 1 above.
- (2) Where a benefice becomes vacant after the incumbent has acquired any property to which sub-paragraph (1) above applies and before he has complied with that sub-paragraph, the bishop shall during the vacancy have power and be under a duty to deal with the property in accordance with that sub-paragraph.
- (3) Where sub-paragraph (1) above would apply in relation to any property devised, bequeathed or given to an incumbent of a benefice but for the fact that at the relevant date the benefice is

vacant, the Board shall during the vacancy have power to acquire the property in place of the incumbent.

6 Application to house of residence of bishop

This Schedule applies with any necessary modifications to the house of residence of the bishop as it applies to a parsonage house; and references to a parsonage house and an incumbent shall be construed accordingly. **22**.

16 Amendment of enactments

- (1) Schedule 2 is modified as follows.
- (2) In paragraph 3 —
 - (a) omit “as it has effect by virtue of section 25 of the Dioceses, Pastoral and Mission Measure 2007 (2007 No. 1)”;
 - (b) for sub-paragraph (a) substitute —
 - 6A**(a) in subsection (2) for “(3) and (4)” there shall be substituted “(3) and (3A)”;**22**.
- (3) In paragraph 4, omit sub-paragraphs (c) and (d).
- (4) In paragraph 5 —
 - (a) in sub-paragraph (1), for “and paragraphs (c) and (cc)” substitute “, and paragraph (c),”;
 - (b) omit sub-paragraph (2).
- (5) In paragraph 6, omit “and archdeacons” and “archdeacons and”.
- (6) After paragraph (6) insert —
 - 6A**. For section 31(1)(c) there shall be substituted the following paragraph —
 - “(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 thereof, and
 - (ii) in the case of a benefice the incumbent of which is subject to Common Tenure or which is vacant, to the diocesan board of finance;”**22**.
- (7) In paragraph 7, omit “paragraph (e)(iii) and” and “(iv)”.
- (8) After paragraph 7 insert —
 - 7A** In section 59(2A), for the words from “vest” to the end there shall be substituted the words “vest without any conveyance or further assurance —

- (a) where the land is situated in a benefice the incumbent of which is not subject to Common Tenure, in the incumbent of that benefice; or
- (b) where the land is situated in a benefice the incumbent of which is subject to Common Tenure or which is vacant, in the diocesan board of finance.”.

7B In section 87(1), in the definition of “parsonage house”, for the words from the word “vested” to the words “official residence” there shall be substituted the words “being the official residence of the incumbent”.⁷

(9) In paragraph 8, for the words from “in Proviso (b)” onwards substitute “after the words “new benefice” there shall be added the words “or, in the case of a parsonage house of a benefice the incumbent of which is subject to Common Tenure or which is vacant, in the diocesan board of finance””.

(10) Omit paragraphs 16 to 18 and 20 to 22.⁸

(11) [Repealed]⁹

17 Repeals

In Schedule 3 —

- (a) omit the entries relating to the Pluralities Act 1838, the Lecturers and Parish Clerks Act 1844, the New Parishes Measure 1943, the Church of England (Miscellaneous Provisions) Measure 1988 and the Church of England (Miscellaneous Provisions) Measure 1995;
- (b) for the entry relating to the Pastoral Measure 1983 substitute —

“1983 No.1, The Pastoral Measure 1983	Section 20(6). Section 22(1)(c). In Schedule 4, paragraphs 2 and 3.”
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ENDNOTES

Table of Endnote References

¹ Subs (1) repealed by Church (Miscellaneous Provisions) Measure (Isle of Man) 2015 Sch 2.

² ADO - Whole Measure in operation 01 May 2012 for the purposes of making regulations under the Ecclesiastical Offices (Terms of Service) Measure 2009, and making schemes and giving directions under any such regulations, and on 01 January 2013 for all other purposes [SD 220/12].

³ Para (a) substituted by SD 2017/0214.

⁴ Inserted subs (4) repealed by Mission and Pastoral Measure (Isle of Man) 2012 Sch 10.

⁵ Subpara (4) repealed by Church (Miscellaneous Provisions) Measure (Isle of Man) 2015 Sch 2.

⁶ Subpara (5) substituted by Church (Miscellaneous Provisions) Measure (Isle of Man) 2015 s 5(2).

⁷ Subparas (6) to (8) repealed by Church (Miscellaneous Provisions) Measure (Isle of Man) 2015 Sch 2.

⁸ Subpara (10) substituted by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 4.

⁹ Subpara (11) repealed by Safeguarding and Clergy Discipline Measure (Isle of Man) 2017 Sch 4.