



**ECCLESIASTICAL COMMITTEE
OF TYNWALD
SECOND REPORT FOR THE
SESSION 2020-21**

**Draft Church Property Measure
(Isle of Man)**

ECCLESIASTICAL COMMITTEE OF TYNWALD
SECOND REPORT FOR THE SESSION 2020-21
Draft Church Property Measure (Isle of Man)

The Committee was first created by the Church Assembly Act 1925, and is now established under the Church Legislation Procedure Act 1993 to consider and report to Tynwald on draft measures presented to it by the Legislative Committee of the Diocesan Synod.

There shall be a Standing Committee of the Court on Ecclesiastical matters which shall discharge the functions prescribed for it by the Church Legislation Procedure Act 1993.

The Committee shall be composed of three Members.

The powers, privileges and immunities relating to the work of a committee of Tynwald include those conferred by the Tynwald Proceedings Act 1876, the Privileges of Tynwald (Publications) Act 1973, the Tynwald Proceedings Act 1984 and by the Standing Orders of Tynwald Court.

Committee Membership

Hon A L Cannan MHK (Ayre and Michael) (Chair)

Mrs M M Maska MLC

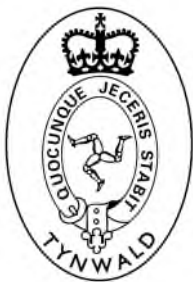
Mrs C L Barber MHK (Douglas East)

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To: The Hon. Stephen C. Rodan OBE MLC, President of Tynwald,
and the Hon. Council and Keys in Tynwald assembled

**ECCLESIASTICAL COMMITTEE OF TYNWALD
SECOND REPORT FOR THE SESSION 2020-21
Draft Church Property Measure (Isle of Man)**

I. INTRODUCTION

1. In accordance with the provisions of the Church Legislation Procedure Act 1993, the Legislative Committee of the Sodor and Man Diocesan Synod has presented the Draft Church Property Measure (Isle of Man) (PP 2021/0004A) to the Ecclesiastical Committee of Tynwald for consideration.

II. OBJECTIVE

2. The main objective of the Draft Church Property Measure (Isle of Man) is to remove unnecessary restrictions on the holding of land and trust property by incumbents and churchwardens and by parochial church councils.
3. The Draft Church Property Measure (Isle of Man) may be found at Appendix 1.
4. An explanatory memorandum explaining the effects of the draft Measure may be found at Appendix 2.

III. RECOMMENDATION

5. If Tynwald pass a resolution directing that the Measure, in the form laid before Tynwald, should be presented to Her Majesty, then the Measure will be presented to Her Majesty in the same manner as a Bill and have the force and effect of an Act of Tynwald on the Royal Assent to the Measure being announced to Tynwald.

Recommendation

That the Draft Church Property Measure (Isle of Man) (PP 2021/0004A) in the form laid before Tynwald be presented to Her Majesty for Her Royal Assent, as required by Schedule 1 to the Church Legislation Procedure Act 1993.

A L Cannan (Chair)

M M Maska

C L Barber

January 2021

APPENDIX 1:
Draft Church Property Measure
(Isle of Man)

DRAFT CHURCH PROPERTY MEASURE (ISLE OF MAN)

<i>Approved by Sodor and Man Diocesan Synod</i>	<i>26 November 2020</i>
<i>Approved by Tynwald</i>	<i>2021</i>
<i>Royal Assent given</i>	<i>2021</i>
<i>Announced to Tynwald</i>	<i>2021</i>

A MEASURE enacted pursuant to the Church Legislation Procedure Act 1993 to extend the powers of incumbents and churchwardens and of parochial church councils; to make further provision for the application of the proceeds of sale of closed churches; and for connected purposes

Introductory

1. Short title

The short title of this Measure is the Church Property Measure (Isle of Man) 2021.

2. Commencement

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

3. Interpretation

In this Measure —

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

"incumbent", in relation to a parish, means the incumbent of the benefice whose area comprises or includes that parish;

"incumbent or churchwardens", in relation to a parish, means the incumbent or the churchwardens, or the

incumbent and the churchwardens, of the parish, or any of them.

Incumbents and churchwardens

4. Acquisition of land

The incumbent or churchwardens of a parish may acquire and hold an interest in land for any ecclesiastical purpose affecting the parish or any part of it.

5. Notice to Board

- (1) Where an incumbent or churchwardens hold, acquire or administer an interest to which this section applies, they must inform the Board in writing of that interest and, in the case of an interest held on trust, of the terms of the trust.
- (2) This section applies to —
 - (a) an interest in land, other than an interest in a church, churchyard or burial ground, or
 - (b) a fund held on trust for any ecclesiastical purpose which exceeds the prescribed amount in value.
- (3) In this section "the prescribed amount" means £5,000 or such higher amount as may be prescribed by order made by the Board and approved by the Diocesan Synod.

6. Trust accounts

- (1) The incumbent or churchwardens of every parish must —
 - (a) present to the annual parochial church meeting of the parish —
 - (i) the accounts of every ecclesiastical charity administered by them for the year ending on the 31st December immediately preceding the meeting, and
 - (ii) the statement of the funds and property of the charity at that date, and
 - (b) not later than 7 days before the annual parochial church meeting cause a copy of the accounts and statement to be published and affixed for a period of at least 14 days on or

near the principal door of every church and other building licensed for public worship in the parish, and

- (c) not later than 14 days after the annual parochial church meeting send a copy of the accounts and statement to the Board.
- (2) Subsection (3) applies to an ecclesiastical charity whose gross income in the year in question exceeds £25,000 or such higher amount as may for the time being be substituted for that amount in section 27(2) of the Charities Registration and Regulation Act 2019.
- (3) The incumbent or churchwardens of every parish must cause —
 - (a) the accounts of every charity administered by them to which this subsection applies, for each year ending on 31st December, and
 - (b) a statement of the funds and property of the charity at that date,to be made up and examined in accordance with subsection (4).
- (4) The accounts and statement referred to in subsection (3) must be examined by an independent person who —
 - (a) is an accountant;
 - (b) holds a qualification prescribed by regulations under section 46 of the Charities Registration and Regulation Act 2019; or
 - (c) is for the time being approved by the Bishop for the purpose of examining the accounts and statement in question.
- (5) In relation to a charity to which subsection (3) applies, the references in subsection (1) to the accounts and statement of funds and property of the charity are to the accounts and statement examined in accordance with subsection (4).
- (6) In this section "ecclesiastical charity" has the same meaning as in Schedule 3 to the Church Act 1992.
- (7) Nothing in this section applies to accounts to which section 17 of the Burials Act 1986 applies.

7. Status of churchwardens

- (1) The churchwardens of every parish are, and are deemed always to have been, a body corporate with perpetual succession.

- (2) In subsection (1) "parish" means an ecclesiastical parish, and includes —
- (a) an ecclesiastical parish dissolved by or under any statutory provision, whether before or after the passing of this Measure, and
 - (b) a parochial district constituted for ecclesiastical purposes which existed before the extension to the Island of the Pastoral Measure 1983.

Parochial church councils

8. Property of parochial church councils

- (1) In section 1(1) of the Parochial Church Councils and Accounts Measure 2010 —
- (a) omit paragraph (a);
 - (b) after paragraph (c) insert —
 - "(ca) in section 5 —
 - (i) in the heading, omit ": educational schemes";
 - (ii) omit subsections (1)(b) and (3);
 - (iii) in subsection (2), after "this Measure" insert "and Schedule 2 to the Church Act 1992 (an Act of Tynwald)";
 - (c) for paragraph (d) substitute —
 - "(d) for section 6 substitute —
 - "6. Notice to diocesan authority**
 - (1) Where a council holds, acquires or administers —
 - (a) an interest in land, or
 - (b) a fund held on trust for any ecclesiastical purpose which exceeds the prescribed amount in value,the council must inform the diocesan authority in writing of that interest or fund and, in the case of an interest or fund held on trust, of the terms of the trust.
 - (2) In subsection (1)(b) "the prescribed amount" has the same meaning as in section 5 of the Church Property Measure (Isle of Man) 2021."."

- (2) Subsection (3) applies to any real or personal property which immediately before the commencement of this section is held by the Board as trustee for a parochial church council, whether under section 6 of the Parochial Church Councils (Powers) Measure 1956 (as previously extended to the Island) or otherwise.
- (3) The Board must, at the request and cost of the council, take such steps as are necessary for vesting in the council any property to which this subsection applies, subject to all existing trusts and charges affecting the property.

Proceeds of sale of closed building

9. Proceeds of sale of closed building

- (1) Paragraph 4 of Schedule 3 to the Mission and Pastoral Measure (Isle of Man) 2012 (contents of disposal schemes) is amended as follows.
- (2) In sub-paragraph (5), for "sub-paragraph (7)" substitute "sub-paragraphs (7) and (7A)".
- (3) After sub-paragraph (7) insert —
"(7A) The Board shall pay to the parochial church council of the parish in which the building is situated one-tenth of the net proceeds or premiums, as the case may be, after deducting —
 - (a) any sum to be repaid under sub-paragraph (7), and
 - (b) any expenses incurred by the Board in insuring and maintaining the building between its closure for regular public worship and its disposal,before the net proceeds or premiums are paid or applied in accordance with sub-paragraph (5).".

Supplemental

10. Saving

- (1) Nothing in this Measure affects the powers of the Board under —
 - (a) section 3 of the Church Act 1992 (Board may act as trustee),or

- (b) Schedule 3 to that Act (schemes relating to ecclesiastical trusts).
- (2) Nothing in this Measure affects the powers of an incumbent or churchwardens under the Burials Act 1986.

11. Consequential amendments and repeals

- (1) The enactments specified in Schedule 1 are amended in accordance with that Schedule.
- (2) The enactments specified in Schedule 2 are repealed to the extent specified in column 3 of that Schedule.

Section 11(1).

SCHEDULE 1
AMENDMENT OF ENACTMENTS

Church Act 1987

1. In Schedule 1, in paragraph 39(1), in the inserted sub-paragraph (cb), for "section 5B(4) of the Incumbents and Churchwardens (Trusts) Measure 1964" substitute "section 6(1) of the Church Property Measure (Isle of Man) 2021".

Religious Charities Regulations 1999 (SD 392/99)

2. In the Schedule, for the item beginning "An incumbent" substitute –
"An incumbent or churchwardens, within the meaning of the Church Property Measure (Isle of Man) 2021."

Section 11(2).

SCHEDULE 2
CONSEQUENTIAL REPEALS

<i>Reference</i>	<i>Title</i>	<i>Extent of repeal</i>
AT 3 of 1948	Church Act 1948.	Section 7.
AT 26 of 1986	Burials Act 1986.	In section 7(4), the words from ", who for that purpose" onwards.
AT 5 of 1992	Church Act 1992.	In section 10(4), paragraph (b) and the preceding "or".
SM 2 of 1990	Church (Miscellaneous Provisions) Measure (Isle of Man) 1990.	Section 1. Schedule 1.
SM 1 of 1993	Church (Miscellaneous Provisions) Measure (Isle of Man) 1993.	In section 1, the words "Section 10 (advowsons)". In the Schedule, paragraph 3.
SM 1 of 2010	Parochial Church Councils and Accounts Measure (Isle of Man) 2010.	Section 2.
AT 7 of 2019	Charities Registration and Regulation Act 2019.	Section 63.

APPENDIX 2:

**Memorandum to the Ecclesiastical
Committee of Tynwald
re: Draft Church Property Measure
(Isle of Man)**

MEMORANDUM TO THE ECCLESIASTICAL COMMITTEE OF TYNWALD

DRAFT CHURCH PROPERTY MEASURE (ISLE OF MAN)

1. The Sodor and Man Diocesan Synod on 26 November 2020 approved the **draft Church Property Measure (Isle of Man)** pursuant to paragraph 1(3) of Schedule 1 to the Church Legislation Procedure Act 1993. Accordingly the Legislative Committee presents the draft Measure, a copy of which accompanies this Memorandum, to the Ecclesiastical Committee of Tynwald for consideration under paragraph 2 of the said Schedule 1.
2. The main object of the draft Measure is remove unnecessary restrictions on the holding of land and trust property by incumbents and churchwardens and by parochial church councils.
3. **Clauses 1 to 3** are introductory.
4. **Clauses 4 to 6** make new provision for the holding of property by incumbents and churchwardens, replacing the *Incumbents and Churchwardens (Trusts) Measure 1964*. That Measure was extended to the Isle of Man in 1992, and requires land and certain trust property owned by an incumbent and churchwardens (except churches, churchyards and burial grounds, and short leases and tenancies) to be vested in the Diocesan Board of Finance as 'custodian trustee'.
 - 4.1. Clause 4 gives an incumbent and churchwardens a general power to acquire and hold land or trust property for Church purposes without the consent of the Diocesan Board of Finance, and without the land or property being vested in the Board.
 - 4.2. Clause 5 requires an incumbent and churchwardens to notify the Board if they acquire or hold any land (except a church, churchyard or burial ground) or a trust fund over £5,000 in value. This replaces section 5A of the 1964 Measure.
 - 4.3. Clause 6 requires the accounts of any trust fund held by an incumbents and churchwardens to be presented to the annual parochial church meeting; the accounts of a fund with an income over £25,000 must be examined. This replaces section 5B of the 1964 Measure.
5. **Clause 7** removes any doubt that the churchwardens of a parish are a body corporate.
6. **Clause 8** makes provision corresponding to clauses 4 and 5 in the case of parochial church councils, giving them general power to hold land and removing the requirement for such land to be vested in the Diocesan Board of Finance.
7. **Clause 9** provides for the parochial church council to receive one-tenth of the net proceeds of sale of a closed church.
8. **Clause 10** contains saving provisions.
9. **Clause 11** and **Schedules 1 and 2** make consequential amendments and repeals.

10. The Legislative Committee respectfully requests the Ecclesiastical Committee to consider the draft Measure and to recommend to Tynwald that it be presented to Her Majesty for Her assent.

W H Connell

Chairman of the Legislative Committee

November 2020

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