

DIOCESE OF SODOR AND MAN
FINANCIAL LEGISLATION

1. History

1.1 In earlier times the finances of the Manx Church derived principally from two sources:

- (a) the endowments (mainly glebe land and tithes) of the See and the parochial benefices, which provided the main income of the bishop and parish clergy and were administered by them, and
- (b) property and funds given for specific charitable purposes, eg. the education of children, the relief of the poor, the repair of church buildings or the augmentation of the income of the clergy, which were usually under the control of bodies of trustees (the incumbent and churchwardens in the case of parochial trusts).

Until recent times there were no diocesan or parochial institutions of a kind we would recognise today, with general responsibilities for church finance or administration.

1.2 The first such institution at the diocesan level was the Church Commissioners for the Isle of Man, who were established as a joint Church-State administrative body¹. It had no general funds of its own, but was able to act as trustee of Church property, and came to administer numerous funds for specific purposes. It was also given a supervisory and management role in connection with episcopal and parochial endowments, and limited powers of pastoral reorganisation.

1.3 At the parochial level, the incumbent and churchwardens continued to hold and administer local trusts, but as part of the democratisation of the Church in the early 20th century, parochial church councils were established to take over a measure of responsibility for parish finance and administration².

1.4 A diocesan conference was established in 1925³, and immediately a need was felt for a single diocesan financial institution under Church control, on the English model. The Sodor and Man Diocesan Board of Finance was established in 1929⁴, and became trustee of certain episcopal, diocesan and parochial funds which had previously been under separate management, notably the "Impropriate Fund", a trust for augmenting the income of the parish clergy originally created in 1666.

1.5 The assets of the Board were to some extent rationalised in 1934⁵, when the endowments of the See (except the Bishop's house) were transferred to the Board. The Board's funds for augmenting parochial incomes (including the Impropriate Fund) were merged into a "Diocesan Trust", the income of which (subject to payment of certain annual sums to specified incumbents) was to

¹ Church Act 1880

² Church Assembly (Powers) Act 1919 (Parliament). There was some doubt whether PCCs had any legal existence in the Isle of Man, but a High Court case in 1936 decided that they did.

³ Church Assembly Act 1925

⁴ Diocesan Endowments Act 1929

⁵ Church Act 1934

be applied "for such ecclesiastical purpose or purposes in the Diocese as the Board in its absolute discretion may consider advisable". Thus for the first time a diocesan body controlled funds which could be used for general, rather than specific, church purposes.

- 1.6 In 1983 the Church Commissioners for the Isle of Man became a solely Church body, instead of jointly representing Church and State¹. The anomaly of having two authorities responsible for the diocesan finances became more obvious, and in 1993 all the Commissioners' financial functions, endowments and trusteeships were vested in a reconstituted Board, the Commissioners becoming responsible for pastoral reorganisation only².

2. Constitution and proceedings

- 2.1 Schedule 1 to the Church Act 1992 sets out the membership of the Sodor and Man Diocesan Board of Finance, and makes general provision for its proceedings. The current text is set out in Appendix 1, and incorporates certain provisions of the Statutory Boards Act 1987 set out in Appendix 2.
- 2.2 The powers of investment of the Board are contained in section 4 of the 1992 Act, set out in Appendix 3.

3. Functions of the Board

3.1 Diocesan finances — general

The principal function of the Board is to raise, manage and spend money for general Church purposes in the diocese (as distinct from funds applicable for specific purposes). This derives principally from annual contributions to the Shared Ministry Fund (formerly known as 'quotas') from the parishes, but also from investment income.

There is no legal obligation on the parishes to pay their contributions, merely moral suasion³. This money is spent as follows —

- (i) clergy stipends and pension contributions;
- (ii) diocesan contribution to central Church expenses;
- (iii) administrative expenses of the diocese;
- (iv) clergy training.

3.2 Clergy stipends

The system of remunerating the clergy is complex. Historically the income of the parochial clergy ('incumbents') derived from various sources: (a) tithes (payments in kind or cash from the produce of land in the parish), (b) the produce or rents of glebe (land belonging to the benefice), (c) fees for occasional services (eg. marriages, funerals), (d) income from legacies or other funds held in trust for augmenting the income of particular clergy or clergy in general, and (e) contributions from parishioners (especially Easter collections). These amounts varied between different parishes.

¹ Church Act 1983

² Church Act 1992 ss.1, 2 & 7

³ A polite term for a combination of bluff and blackmail. The only element of the quota for which there is a legal basis is the contribution to the fund noted at 3.10(c) below.

In modern times the income from these sources has either ceased altogether, or become insufficient for the clergy to live on. Today it is all, apart from Easter offerings, paid over to the Board, which pays a standard stipend to all incumbents, the difference being made up from the parish contributions. This arrangement formerly had no basis in legislation, but is now laid down in the clergy terms of service under Common Tenure¹.

The Bishop's stipend is paid by the Church Commissioners for England.

3.3 *Clergy housing*

The arrangements for clergy housing are no less complex. Most benefices include a 'parsonage house', in which the incumbent must reside. Formerly the house was the property of the incumbent for the time being, and he was obliged to keep it in repair out of his income, and on his resignation or death he or his estate had to pay for any arrears of repair ('dilapidations')².

In the course of time these obligations became a dead letter, and the parishes were expected (again without any legal basis) to pay for the maintenance of parsonage houses. With the introduction of Common Tenure the parsonage houses became vested in the Board³, which is now responsible for their maintenance⁴.

3.4 *Trusteeships*

As noted above, the Board may act as trustee of any property or fund held for ecclesiastical purposes⁵, and holds numerous funds in this capacity⁶, in addition to those inherited from the Church Commissioners for the Isle of Man in 1992 (1.6 above).

3.5 *Custodian trustee*

The Board is also required to act as 'custodian trustee' of certain parish lands and endowments, ie. it is the legal owner, but control and day-to-day management are in the hands of the parochial authorities⁷.

It acts in a similar capacity where a church building is closed for regular public worship and is to be disposed of or used for another purpose, in which case it is automatically transferred to the Board on the coming into operation of the relevant scheme⁸.

3.6 *Compensation for loss of office*

The Board is required to pay compensation to a member of the clergy who loses office on pastoral reorganisation⁹.

¹ Under the Ecclesiastical Offices (Terms of Service) Measure 2009 and Regulations

² Ecclesiastical Residences and Dilapidations Acts 1879 and 1897

³ Ecclesiastical Offices (Terms of Service) Measure 2009 Sch.1A

⁴ Ecclesiastical Offices (Terms of Service) (Isle of Man) Regulations 2012 reg.12

⁵ Church Act 1992 s.3

⁶ These have now largely been rationalised, using the powers noted at 3.8 below.

⁷ Parochial Church Council (Powers) Measure 1956 s.6, Incumbents and Churchwardens (Trusts) Measure 1964 s.3

⁸ Mission and Pastoral Measure (Isle of Man) 2012 Sch.3

⁹ Mission and Pastoral Measure (Isle of Man) 2012 Sch.6, Ecclesiastical Offices (Terms of Service) (Isle of Man) Regulations 2012 reg.30

3.7 *Land transactions*

The Board exercises a measure of control over all transactions relating to Church land. Its consent is required to the acquisition of land by a parochial authority¹, and to disposals of land by the Bishop, incumbents and diocesan and parochial bodies². The sale price or other capital money arising on any transaction relating to Church land is to be paid to the Board, and has to be applied according to set rules³.

3.8 *Schemes relating to ecclesiastical trusts*

The Board has power to make schemes for altering the objects, trusteeship, administration etc. of funds or property held for Church purposes ('ecclesiastical charities'), subject to the approval of the High Court or the Attorney General⁴.

3.9 *Parochial fees*

Certain fees payable to incumbents etc. (eg. for marriages, banns, licences, consent to monuments) are fixed by orders made by the Board, subject to the approval of the Diocesan Synod⁵.

3.10 *Miscellaneous functions*

The Board has a number of other statutory functions relating to Church property or finance, eg.

- (a) sharing agreements with other denominations⁶;
- (b) maintenance of a fund for quinquennial inspections of churches⁷.

K F W Gumbley

Chairman, Legislative Committee, Sodor and Man Diocesan Synod
September 2015

¹ Parochial Church Council (Powers) Measure 1956 s.6, Incumbents and Churchwardens (Trusts) Measure 1964 s.4

² Church Act 1992 Sch.2 para.3

³ Church Act 1992 Sch.2 paras.5 & 6, Ecclesiastical Offices (Terms of Service) Measure 2009 Sch.1

⁴ Church Act 1992 Sch.3

⁵ Church Fees Measure (Isle of Man) 2014 s.4

⁶ Sharing of Church Buildings Act 1969 (Parliament) s.1

⁷ Inspection of Churches Scheme 1997

SCHEDULE 1

CONSTITUTION AND PROCEEDINGS OF BOARD

Constitution of Board

1. (1) The Board shall continue to be a body corporate with perpetual succession and a common seal.
- (2) The Board shall consist of —
 - (a) the Bishop;
 - (b) the Archdeacon;
 - (e) not more than 12 persons ("appointed members") appointed or elected by the Diocesan Synod from among the members of the Synod.
- (3) The standing orders of the Diocesan Synod shall —
 - (a) prescribe the manner in which the appointed members shall be appointed or elected, and
 - (b) include provision for securing that, so far as practicable,
.
 - (ii) not more than half of those members are clerks in Holy Orders.
- (4) A person shall not be eligible to be an appointed member unless he is an actual communicant member of the Church of England.

Term of office of appointed members

2. (1) An appointed member, unless he sooner resigns or otherwise ceases to hold office, shall hold office until the conclusion of the first meeting of the Diocesan Synod following the 1st September in a year in which parochial representatives of the laity are elected to the Diocesan Synod in accordance with the Church Representation Rules.
- (2) An appointed member may at any time resign on giving to the Bishop notice in writing of his intention to do so.
- (3) If the Bishop is satisfied that an appointed member —
 - (a) has been absent from meetings of the Board for a period longer than 12 consecutive months without the permission of the Board; or
 - (b) has become bankrupt or made an arrangement with his creditors; or
 - (c) is incapacitated by physical or mental illness; or
 - (d) is otherwise unable or unfit to discharge his functions as a member,the Bishop may declare his office as a member to be vacant.
- (4) A retiring appointed member shall be eligible to be re-appointed if he is otherwise qualified.

Proceedings of Board

3. (1) The Bishop shall, if he wishes, be chairman of the Board, but otherwise the Board shall elect one of its members to be chairman, who shall hold office during the pleasure of the Board.

(2) The chairman of the Board, if present, shall preside at meetings of the Board, and in his absence a member of the Board chosen by the members present shall preside.

(3) The following provisions of Schedule 2 to the Statutory Boards Act 1987 apply to the Board as they apply to a Statutory Board¹ —

paragraph 2 (meetings);

paragraph 3 (delegation of functions);

paragraph 4 (committees);

paragraph 5 (minutes of proceedings);

paragraph 8 (common seal);

paragraph 9 (execution of documents);

paragraph 10 (legal proceedings).

Expenses of Board

4. Any expenses incurred with respect to any separate fund or property of which the Board are trustees shall be a charge against the fund or property or its income in accordance with the ordinary rules as to the administration of trusts.

Accounts

5. (1) The Board shall cause its accounts, and the accounts of any property, fund or trust held or managed by the Board, to be made up at least once in every calendar year.

(2) The standing committee of the Diocesan Synod shall appoint an independent examiner, who shall examine the accounts at such times, and make reports to the Diocesan Synod on them in such form, as the standing committee may direct.

(3) The examiner must be either —

(a) an accountant², or

(b) a person holding a qualification prescribed by regulations under section 11(1)(c) of the Charities Registration Act 1989.

(4) The Board shall pay the examiner such remuneration as the standing committee, after consultation with the Board, may determine.

Consent to sales etc.

6. (1) The Board may make regulations as to the procedure to be followed in any case where by virtue of Schedule 2 or any other statutory provision the

¹ See Appendix 3

² Defined in Interpretation Act 1976 s.3 as a member of one of 6 accountancy bodies in Great Britain and Ireland.

consent or approval of the Board is required to any disposal of or other transaction affecting property or any interest in property.

(2) Regulations under this paragraph shall not have effect unless they are approved by the Diocesan Synod.

Amendment of constitution etc.

7. (1) The Diocesan Synod may by resolution amend paragraph 1(2), (3) or (4), 2(1) or 3.

(2) A resolution under this paragraph shall not have effect unless it is approved by Tynwald; and a copy of the resolution shall be filed in the Diocesan Registry.

APPENDIX 2

PROVISIONS OF SCHEDULE 2 TO STATUTORY BOARDS ACT 1987 APPLIED TO THE BOARD

Meetings of Board

2. (1) The Board shall hold meetings for the transaction of business at such times as may be necessary for the proper exercise of its functions.
- (2) Meetings of the Board shall be held at any time —
- (a) at the request of the chairman; or
- (b) at the written request of 2 members of the Board addressed to the secretary, clerk, director, administrator or chief executive of the Board.
- (3) The following provisions shall apply to meetings of the Board —
- (a) The Board may make standing orders with respect to the summoning, notice, place, management and adjournment of its meetings, and generally with respect to the transaction and management of its business.
- (b) No business shall be transacted at any meeting unless a quorum of members is present.
- (c) The quorum necessary for the transaction of business by the Board shall be a majority of the members of the Board.
- (d) The chairman or, in the absence of the chairman, the vice-chairman shall preside at every meeting of the Board.
- (e) The names of the members present shall be recorded.
- (f) Every question at a meeting shall be decided by a majority of the votes of the members present and voting on that question, and in the case of an equality of votes the person presiding at the meeting shall have a second or casting vote.
- (g) A member shall be entitled to have his vote on any question recorded in the minutes.
- (h) The proceedings of the Board shall not be invalidated by any vacancy among its members or by any defect in the mode of election of the Board or any member thereof.
- (4) Subject to sub-paragraph (3), the procedure of the Board shall be such as the Board may determine.

Delegation of functions

3. (1) Subject to sub-paragraph (2), a Board may arrange for the discharge of any of its functions by —
- (a) a committee of the Board;
- (b) any member of the Board;
- (c) any officer of the Board; or
- (d) any member of the Board and any officer of the Board acting jointly.
- (2) A Board's functions with respect to —

- (a) the acquisition or disposal of land;
- (b) levying or issuing a precept for a rate;
- (c) borrowing money; or
- (d) making any public document,

shall be exercised only by the Board.

(3) Any arrangements made by a Board for the exercise of any functions by a committee, member or officer of the Board shall not prevent the Board from exercising those functions itself.

Committees

4. (1) The Board may constitute committees, and may include as members of such committees persons who are not members of the Board, but at least one member of such a committee must be a member of the Board.

(2) The procedure of a committee of the Board shall be such as the Board may determine.

(3) Sub-paragraph (2) and paragraph 5 apply to committees constituted under any other enactment as well as to committees constituted under sub-paragraph (1).

Minutes of proceedings

5. (1) Minutes of the proceedings of a meeting of the Board or a committee thereof shall be signed at the same or next following meeting of the Board or committee by the person presiding thereat.

(2) Any minute of the proceedings of a meeting of the Board or any committee thereof purporting to be signed in accordance with sub-paragraph (1) shall be received in evidence without further proof.

(3) Until the contrary is proved, a meeting of the Board a minute of the proceedings of which has been made and signed in accordance with sub-paragraph (1) shall be deemed to have been duly convened and held, and all the members present shall be deemed to have been duly qualified.

(4) Until the contrary is proved, where a minute of any meeting of a committee of the Board has been made and signed in accordance with sub-paragraph (1) —

- (a) the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute,
 - (b) the meeting shall be deemed to have been duly convened and held, and
 - (c) the members present at the meeting shall be deemed to have been duly qualified.
- (5) A document which —
- (a) purports to be a copy of a resolution passed by the Board or any committee thereof, or of the minutes of the proceedings of a meeting of the Board or any committee thereof; and
 - (b) bears a certificate purporting to be signed by a person holding the office of secretary, clerk, director, administrator or chief executive of

the Board, or a person authorised to sign it by such a person or the Board, and stating that the resolution was passed on a date specified in the certificate or, as the case may be, that the minutes were signed in accordance with sub-paragraph (1),

shall be evidence in any proceedings of the matters stated in the certificate and of the terms of the resolution or minutes in question.

Common seal

8. (1) The fixing of the common seal of the Board shall be authenticated by the signatures of —

- (a) the chairman, or some other member of the Board authorised either generally or specially to act in his stead for the purpose; and
- (b) a person holding the office of secretary, clerk, director, administrator or chief executive of the Board, or some other person authorised by the Board either generally or specially to act for the purpose.

(2) Any document purporting to be a document duly executed under the seal of the Board shall be received in evidence and shall, unless the contrary is proved, be deemed to be a document so executed.

Execution of documents

9. (1) Where the Board has power to execute any deed, or to make any public document, or to make or give any direction, requirement, notice, authority, licence, consent, decision or determination, the deed may be executed or the document made or the direction or other matter signified either —

- (a) under the common seal of the Board, or
- (b) under the hand of a member of the Board, or of a person authorised by the Board to sign it.

(2) Any document or instrument purporting to bear the signature of a member of the Board or of a person authorised by the Board to sign it shall be presumed, until the contrary is proved, to have been duly made by or by authority of the Board.

(3) Where a document or instrument purports to bear the signature of a person holding the office of secretary, clerk, director, administrator or chief executive of the Board, it shall be presumed, until the contrary is proved, that at the material time —

- (a) the signatory held the office in question; and
 - (b) he, or the holder for the time being of that office, was authorised by the Board to sign the document or instrument in question.
- (4) A document which —
- (a) purports to be a copy of a document or instrument made by the Board; and
 - (b) bears a certificate purporting to be signed by a person holding an office mentioned in sub-paragraph (3), or a person authorised for the purpose by such a person or the Board, and stating that the document or instrument was made on a date specified in the certificate,

shall be evidence in any proceedings of the matters stated in the certificate and of the terms of the document or instrument in question.

This sub-paragraph is without prejudice to section 18 of the Evidence Act 1871 or section 2 of the Evidence Act 1976.

Legal proceedings

10. (1) The Board may sue and be sued in the name of the Board.
- (2) Service of any legal process or notice may be effected by service on the secretary, clerk, director, administrator or chief executive of the Board.
- (3) The Board may appear in any legal proceedings by the secretary, clerk, director, administrator or chief executive of the Board or any other officer of the Board appointed for the purpose.
- (4) The Board may apply any money in its hands for the purpose of indemnifying itself against any costs or damages which it may incur in or in consequence of the exercise of its functions.

APPENDIX 3

CHURCH ACT 1992

4 Powers of investment etc

(1) The Board may invest any moneys in their hands and available for investment —

- (a) in the purchase of any investments or property of any kind, either real or personal, and whether or not being investments or property authorised by the general law for the investment of trust funds; or
- (b) upon loan upon the security of any property of any description or without security;

and may from time to time vary such investments.

(2) Without prejudice to its powers under subsection (1), the Board may arrange for any such moneys to be invested on behalf of the Board by a body of persons or trust which is —

- (a) established in the United Kingdom for charitable purposes only (as that expression is to be construed according to the law of England and Wales), and
- (b) approved for the purpose of this subsection by the Diocesan Synod¹.

(3) Any such moneys which the Board do not think fit immediately to invest may be deposited at any bank.

(4) The Board may sell, let, exchange, charge or otherwise dispose of any personal property vested in them, or any interest in such property.

(5) No rule of law or statutory provision which, apart from this subsection, would require any authorisation of or consent to a disposal under subsection (4), other than a faculty, shall apply to such a disposal.

(6) In relation to any land vested in them otherwise than as custodian trustee, the Board may exercise all the powers of management or improvement which could be exercised by an absolute owner holding the land beneficially.

¹ The Sodor and Man Diocesan Association (registered charity 507933 England) was approved by the Diocesan Synod on 24th November 1992