

YOUR CHURCH AND THE LAW OF THE ISLE OF MAN

A COMMENTARY ON *YOUR CHURCH AND THE LAW**

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1. Introduction

Since the Isle of Man finally came under the English Crown in 1333, the Church in the Island has been constitutionally a part of the Church of England, although the ecclesiastical law of the Island has always differed in certain respects from that of England. These notes are intended to draw those differences to the attention of clergy and laity, especially those who come from England, so that mistakes and misunderstandings can, as far as possible, be avoided.

2. Why does the Church need Law?

p.7 Some, but not all, General Synod Measures extend to the Isle of Man. The *Church Legislation Procedure Act 1993* (of Tynwald) enables the Sodor and Man Diocesan Synod to pass Measures to make special provision for the Isle of Man (including the extension of General Synod Measures subject to modifications); such Measures have the force of law if approved by Tynwald and given Royal Assent.[†]

p.8 The chancellor of the diocese of Sodor and Man is usually referred to as the Vicar General.

3. Churchwardens

p.12 The *Churchwardens Measure 2001* does not extend to the Isle of Man. Churchwardens are appointed and hold office under the *Churchwardens (Appointment and Resignation) Measure 1964*. To be qualified for appointment a person must be (i) be resident in the ecclesiastical parish or on the church electoral roll of the parish, (ii) an actual communicant member of the Church of England (unless the Bishop otherwise permits) and (iii) at least 21 years old.

p.13 In the 17 'ancient parishes' there are 4 churchwardens (6 in the parish of German), elected annually at a meeting of parishioners, which must be held not later than 30th April. The meeting may be attended by (i) persons whose names are on the church electoral roll of the ecclesiastical parish and (ii) persons resident in the ecclesiastical parish whose names are on the register of electors by reason of such residence.

In the remaining parishes there are 2 churchwardens, appointed jointly by the minister and a meeting of parishioners (as above). If the minister and the meeting cannot agree, each appoints one churchwarden.

* David Parrott, *Your Church and the Law* (Canterbury Press, 2008)

† See further K F W Gumbley, *Church Legislation in the Isle of Man*, (1994) 3 Ecc LJ 240 (<http://www.gumbley.net/article.htm>)

- p.14 The churchwardens are admitted to office, not by the Archdeacon, but at a Chapter Court held by the Vicar General.

The churchwardens of an 'ancient parish' are responsible for the maintenance of the parish burial grounds under the *Burials Act 1986* (of Tynwald). For this purpose they levy a 'burial rate' on all properties in the parish.

- p.16 There is no limit on the length of service of a churchwarden in the Isle of Man.

- p.17 A churchwarden may only resign with the consent of the minister, the other churchwarden(s) and the Bishop. But he ceases to be a churchwarden if he is not resident in the ecclesiastical parish and his name is not on the church electoral roll.

- p.18 The churchwardens remain in office until their successors are admitted.

In an ancient parish the minister has no say in the election of churchwardens. In the other parishes, as noted above, the minister and the meeting each appoints one churchwarden if they cannot agree on both.

- p.19 If a churchwarden does not attend the Chapter Court for admission, he does not take office, and the person in whose place he was appointed continues in office. If he was previously churchwarden and was re-appointed, he remains in office.

- p.20 The text of the *Churchwardens (Appointment and Resignation) Measure 1964* as it has effect in the Island is at <http://www.gumbley.net/carm1964.htm>

4. APCMs

- p.22 In the Isle of Man special provision is made for church electoral rolls, APCMs and PCCs in the parishes of Lezayre, Marown and Maughold. Each of those parishes is divided into two separate electoral districts, one attached to the parish church and the other to a chapel of ease (St Stephen's Sulby, St Luke's Baldwin, Christ Church Dhoon). Each district has its own church electoral roll, APCM and PCC. Accordingly, in the case of these parishes, references to a parish in this chapter and chapter 5 should be read as references to one of those districts.

- p.26 At items 5 and 6 in the agenda, for 'deanery synod' read 'diocesan synod' (see note on p.34).

- p.30 No postal voting is allowed for elections at an APCM in the Isle of Man.

- p.32 The text of the *Church Representation Rules* as they have effect in the Isle of Man is at <http://www.gumbley.net/crrframe.htm> The text published by Church House Publishing states the CRR as they have effect in England, and cannot be relied on in the Isle of Man.

5. PCCs

- p.33 Ignore the reference to lay members of deanery synods. See also the note on p.22 above.
- p.34 Ignore the reference to the deanery synod. In the Isle of Man the lay representatives on the diocesan synod are directly elected by the APCM.
- p.35 Ignore the table. The number of lay representatives on the PCC is not fixed, but is decided by the APCM (a decision does not take effect until the next year's APCM).
- p.37 In the first list, omit references to the deanery synod in items 3, 4 and 5.
In the second list, omit item 3 (see note on p.14 above).
- p.39 Omit item 20.
Church Representation Rules: see note on p.32 above.
- p.41 District church councils cannot be set up in the Isle of Man (but see note on p.22 above).
Churches and churchyards in the Isle of Man are generally vested in the incumbent and churchwardens jointly.
- p.42 The churchwardens are responsible for maintaining churchyards which are parish burial grounds (see note on p.14 above).
- p.43 There is no maximum number of members of a PCC in the Isle of Man.

7. Marriage*

- p.53 The UK Marriage Act 1949 does not extend to the Isle of Man, and the formalities of marriage are governed by the *Marriage Act 1984* (of Tynwald). See notes on pp.69-70 below.
A marriage in the Isle of Man may take place between 7.00 am and 6.00 pm.
- p.54 The table of kindred and affinity ('prohibited degrees') in the Isle of Man is different (see Schedule 1 to the Marriage Act 1984 (above)).
- p.56 Available preliminaries in the Isle of Man are: (i) banns; (ii) common licence; (iii) special licence issued by the Bishop of Sodor and Man. See <http://www.gumbley.net/weddings.htm>
- p.58 For the procedure for obtaining a special licence, see <http://www.gumbley.net/special.htm>

* Amendments to the law of marriage are made by the *Marriage and Civil Registration Bill*, introduced in the House of Keys in November 2009. If that Bill becomes law, these notes will be revised accordingly.

- p.59 In the Isle of Man a Church of England marriage cannot be solemnised on the authority of a superintendent registrar's certificate (see note on p.56 above).
- p.60 The changes in the law regarding residence under the Church of England Marriage Measure 2008 do not apply to the Isle of Man.
- p.62 The statutory fees for Church of England marriages in the Isle of Man are fixed locally. See <http://www.gumbley.net/weddings.htm>
- p.64 Civil partnership is not recognised under Manx law, and there is no procedure in the Isle of Man for entering into a civil partnership.
- p.67 The Act referred to in footnote 45 does not extend to the Isle of Man, but similar provision is made by the *Judicature (Matrimonial Causes) Act 1965* (of Tynwald).
- p.69 For a guide *Anglican Marriage in the Isle of Man*, equivalent to the 'Purple Book' referred to, see http://www.gumbley.net/marriageguide_2008.pdf
- p.70 For the Marriage Act 1984 see <http://www.gumbley.net/mactframe.htm>
A guide in layman's terms is at <http://www.gumbley.net/weddings.htm>

8. Funerals and churchyards

- p.78 The churchwardens, not the PCC, are responsible for the maintenance of the parish burial grounds under the *Burials Act 1986* (of Tynwald).
- p.80 The ownership of the burial ground is usually vested in the incumbent and churchwardens.

9. Clergy

- p.91 The 1975 Measure referred to in footnotes 38 & 39 does not extend to the Isle of Man, but similar provision is made by the *Church Act 1992* (of Tynwald).
- p.92 The 1977 Measure referred to in footnotes 41-47 does not extend to the Isle of Man, but similar provision is made by two Measures passed by the Sodor and Man Diocesan Synod (see note on p.7 above).
- p.95 The Crown is the patron of a number of benefices in the Isle of Man, and a simplified procedure (with very limited involvement of the parish*) applies to appointments by the Crown. See <http://www.gumbley.net/patrons.htm>
- p.100 The Church Commissioners for the Isle of Man take the place of the pastoral committee in the Isle of Man.
- p.102 In the Isle of Man the patron's rights pass to the archbishop after 18 months.

* Legislation now being passed (which may in time be extended to the Isle of Man) will increase the involvement of the parish in appointments to Crown benefices.

The text of the Patronage (Benefices) Measure 1986 as it has effect in the Isle of Man is at <http://www.gumbley.net/pbmframe.htm>

- p.104 The Ecclesiastical Offices (Terms of Service) Measure 2009 is expected to come into force in England in early 2011. Its extension to the Isle of Man (with modifications) is currently under consideration.

The Clergy Discipline Measure 2003 and the rules made under it are modified in their application to the Isle of Man, eg. with respect to disciplinary tribunals. See <http://www.gumbley.net/cdmframe.htm> and <http://www.gumbley.net/cdrules.htm>

13. Rural deans

- p.119 The 1836 Act referred to in footnote 1 did not extend to the Isle of Man, but similar provision is made by the *Church Act 1880* (of Tynwald).

14. Faculties

- p.127 The 1955 Measure referred to in footnote 7 does not extend to the Isle of Man, but similar provision is made by the *Church Act 1979* (of Tynwald).
- p.129 In the Isle of Man the equivalent to a 'listed building' is a building entered in the Protected Buildings Register. See note on p.135 below. No statement of need or statement of significance is required.
- p.130 English Heritage and the amenity societies do not have any legal role in the Isle of Man.
- p.131 For the forms and procedure, see the Faculty Jurisdiction Rules 1992 at <http://www.gumbley.net/fjrules.htm> *
- p.135 There is currently no provision for the Archdeacon to grant a faculty, but new legislation will shortly permit this.

There is no 'ecclesiastical exemption' applying to registered buildings in the Isle of Man (see note on p.129 above), so registered building consent, as well as a faculty, is required for works which affect the character of such a building as a building of special architectural or historic interest.

15. Worship

- p.148 Copyright law in the Isle of Man is similar to that in force in England, but with the major difference that copyright lasts for only 50 years from the author's death, not 70 years. See <http://www.gumbley.net/copyrite.htm>

* New rules will shortly be made, and will be posted at the URL mentioned when they come into force.

16. Parish finance

- p.155 The Charities Act 1993 does not extend to the Isle of Man. The *Charities Registration Act 1989* (of Tynwald) makes provision for the registration of charities and for the audit and filing of their accounts, but PCCs, and incumbents and churchwardens, are exempted by the *Religious Charities Regulations 1999*.
- p.158 There is no requirement for an annual report in this form. The financial statements to be presented to the APCM are set out in the Church Representation Rules (see note on p.32 above).
- p.160 While this analysis of 'funds' is a useful guide for accounting purposes, it has no legal force in the Isle of Man.
- p.161 All PCC accounts are required to be audited.*
- p.165 Gift Aid does not operate in the Isle of Man. However, relief from Isle of Man income tax is available for certain donations and covenants for church purposes (see Practice Note 83/00 issued by the Isle of Man Treasury).
- p.166 In the Isle of Man the Easter offering is not required to be taken into account when calculating the minister's stipend.

17. Ecumenism

- p.177 The provisions relating to mission orders are now in force in England, but do not extend to the Isle of Man.

18. Employing staff

- p.180 Relevant legislation in force in the Isle of Man:

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| Employment (Sex Discrimination) Act 2000 (of Tynwald) | Prevents discrimination in employment on grounds of sex of marital status (special provision for ministers of religion) |
| Race Relations Act 2004 (of Tynwald) | Prevents discrimination on grounds of race |
| Disability Discrimination Act 2006 (of Tynwald) | Prevents discrimination on grounds of disability |
| Employment Act 2006 (of Tynwald) | Gives employees various rights, eg. statements of particulars, not to be unfairly dismissed |
| Health and Safety at Work etc. Act 1974 (of Parliament) | Requires employers to take steps to minimise risks to health and safety |
| Minimum Wage Act 2001 (of Tynwald) | Requires workers to be paid a minimum wage |

* Examination by an independent, qualified person will replace audit, if current legislation before the Diocesan Synod becomes law.

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| Employers' Liability (Compulsory Insurance) Act 1976 (of Tynwald) | Requires employers to insure against certain risks to employees |
| Asylum and Immigration Act 1996 (of Parliament) | Restricts the employment of non-EEA nationals |
| Income tax and social security legislation | Requires income tax (ITIP) and national insurance contributions to be deducted from wages etc. |

p.183 The *Employment Act 2006* (of Tynwald) confers similar rights to the 1996 Act referred to.

p.184 There is no entitlement to 'statutory sick pay' in the Isle of Man.

19. Working with volunteers

p.192 HMRC's rules on mileage do not apply to the Isle of Man. Enquiry should be made of the Isle of Man Treasury (Income Tax Division).

p.194 House-to-house collections require to be licensed by the Chief Constable under the *Charitable Collections (Regulation) Act 1939*. Street collections are regulated by local authority byelaws in certain places.

20. Children

p.196 The Canons referred to in this chapter apply to the Isle of Man, but none of the UK legislation referred to in this chapter (or the Safeguarding Vulnerable Groups Act 2006 which replaces it) extends to the Island. No equivalent Manx legislation is in force. However, the child protection policy of the diocese of Sodor and Man follows that recommended by the House of Bishops.

21. Health and safety

p.212 The Health and Safety at Work etc. Act 1974 has been applied to the Isle of Man with modifications under Act of Tynwald. For further information see <http://www.gov.im/dlge/enviro/healthandsafety/>

p.213 The 1999 regulations referred to at footnote 3 do not apply to the Isle of Man, but equivalent regulations of 2003 do apply (see <http://www.gov.im/lib/docs/dlge/enviro/managementhsregs.pdf>)

p.214 None of the safety regulations referred to at footnotes 5 to 8 and 10 apply to the Isle of Man.

p.218 None of the food hygiene regulations referred to at footnotes 18 to 21 apply to the Isle of Man. For details of the EC food hygiene regulations which have been applied to the Island under Act of Tynwald, see <http://www.gov.im/lib/docs/dlge/enviro/foodhygieneecapplnordersd5.pdf>

p.222 None of UK anti-smoking legislation referred to at footnotes 26 and 27 applies to the Isle of Man. However, the *No-Smoking Premises Regulations 2007*, made under Act of Tynwald, prohibit smoking in 'premises used for, or

in connection with, public worship or religious instruction, or the social or recreational activities of a religious body', though no-smoking signs do not have to be displayed at such premises.

- p.223 A licence under the *Licensing Act 1995* (of Tynwald) is required for the sale of alcohol on church premises. A 'charitable function licence' may be obtained (without fee) for the sale of wine at a charitable function: see <http://www.gov.im/lib/docs/courtservice/licensing/lc2g.pdf>

The law relating to 'regulated entertainments' does not apply to the Isle of Man. No licence is required under the *Music and Dancing Act 1961* (of Tynwald) for an entertainment in a church or church hall.

However, a fire certificate is required under the *Fire Precautions Act 1975* (of Tynwald) and the *Fire Precautions (Entertainment Premises) Order 1997* for any premises used for any public entertainment (including plays, films, music and dancing), but not for premises the main use of which is for the purpose of public religious worship. See <http://www.gov.im/dha/fire/safety.xml>

22. Data protection

- p.226 The UK Data Protection Act 1998 does not extend to the Isle of Man, but the *Data Protection Act 2002* (of Tynwald) is in almost identical terms. In the Island data controllers must notify the Isle of Man Data Protection Supervisor of the handling of personal data. See <http://www.gov.im/odps/>

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