Text as amended by Ecclesiastical Offices (Terms of Service) (Isle of Man) (Amendment) Regulations 2013, 2014, 2016, 2017 & 2024 (SD 259/13, SD 2014/373, SD 2016/232, SD 2017/214 & SD 2024/0281), Mission and Pastoral (Amendment) Measure (Isle of Man) 2018 and Church (Miscellaneous Provisions) Measure (Isle of Man) 2021

Statutory Document No. 321/12

ECCLESIASTICAL OFFICES (TERMS OF SERVICE) MEASURE 2009

ECCLESIASTICAL OFFICES (TERMS OF SERVICE) (ISLE OF MAN) REGULATIONS 2012

Approved in draft by the Sodor and Man Diocesan Synod	*9th May 2012*
Laid before Tynwald	*10th July 2012*
Coming into operation	*In accordance with regulation 1(2)*

The Sodor and Man Diocesan Board of Finance makes these Regulations under section 2 of the Ecclesiastical Offices (Terms of Service) Measure 2009[1] as it has effect in the Isle of Man[2].

PART 1

INTRODUCTORY

1. Title and commencement

(1) The title of these Regulations is the Ecclesiastical Offices (Terms of Service) (Isle of Man) Regulations 2012.

(2) These Regulations come into operation —

(a) for the purpose of making any scheme or giving any directions, on 1st October 2012;

(b) for all other purposes, on 1st January 2013.

2. Interpretation

(1) In these Regulations—

[1] 2009 No.1

[2] SD 0192 /12

"the 2006 Act" means the Employment Act 2006[3] (an Act of Tynwald);

"the Bishop" means the Bishop of Sodor and Man;

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

"capability procedures" means the procedures described in regulation 31;

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

"grievance procedures" means the procedures for raising grievances prescribed by a code of practice issued under section 8 of the Measure as it has effect in England and for the time being in force, so far as it is applicable to the Isle of Man;

"working day" means any day which is not a rest day or part of a rest period or which is not taken as part of annual or special leave or any such leave as is referred to in regulation Error: Reference source not found(1), and cognate expressions shall be construed accordingly;

"the Measure" means the Ecclesiastical Offices (Terms of Service) Measure 2009;

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

"the Tribunal" means the Employment [and Equality] Tribunal.

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

(3) [Subject to [paragraphs (4) and 5],] these Regulations apply to all office holders holding office subject to Common Tenure, whenever appointed to their office, and the following provisions of these Regulations (except regulation 32(4)(c) and (5)) shall apply to an office holder who becomes subject to Common Tenure whilst holding his or her office as if he or she had taken up that office on the day on which he or she became subject to Common Tenure.

[(4) Where an office holder holds an office in pursuance of a contract of employment, these Regulations do not apply to him or her in respect of that office, without prejudice to the application of the Regulations in respect of any other office held by him or her.]

[3] 2006 c.21

[(5) These Regulations do not apply to a person licensed under section 2A of the Extra-Parochial Ministry Measure 1967 (ministry by member of religious community) in respect of the performance of offices or services in accordance with that licence.]

PART 2

PARTICULARS OF OFFICE

Right to statement of particulars of office

3. Statement of initial particulars of office

(1) An office holder shall be given a written statement of particulars of office by—

(a) an officer of the diocese nominated for that purpose by the Bishop; or

(b) in the case of the Bishop, by an officer of the province nominated by the registrar of the province of York.

(2) The statement may be given in instalments and (whether or not given in instalments) shall be given not later than the relevant date.

(3) The relevant date for the purposes of paragraph (2) shall be the expiry of the period of one month from the date on which the office holder took up the office.

(4) The statement shall contain particulars of—

(a) the name of the office holder and the title or description of the officer nominated by the Bishop or registrar under paragraph (1) and the body which is to be treated, for the purpose of these Regulations, as the respondent in any proceedings brought by the office holder before the Tribunal;

(b) the title of the office to which the office holder has been appointed; and

(c) the date when the appointment took effect.

(5) The statement shall also contain particulars, as at a specified date not more than 7 days before the statement (or the instalment containing them) is given, of—

(a) whether the office holder is entitled to a stipend and, if so, the amount of the stipend or the method of calculating it;

(b) the person or body responsible for the payment of the stipend,

(c) the intervals at which any stipend is payable (that is, weekly, monthly or other specified intervals);

(d) whether the office holder is entitled to receive parochial fees and the relationship, if any, of the receipt of such fees to any stipend;

(e) any terms and conditions relating to the reimbursement of expenses incurred in connection with the exercise of the office;

(f) whether the office is full-time or part-time and, in the case of part-time posts, and of posts for which special provision has been made for hours of work, any terms and conditions relating to hours of work (including any terms and conditions relating to normal working hours);

(g) any terms and conditions relating to any of the following—

(i) entitlement to rest periods and holidays, including public holidays;

(ii) incapacity for work due to sickness or injury, including any provision for sick pay;

(iii) pensions and pensions schemes, including, where the office holder comes within either the Church of England Pensions Scheme or the Church of England Funded Pensions Scheme, or both, a statement to that effect; and

(iv) entitlements to maternity, paternity, parental and adoption leave and time off work to care for dependants in accordance with regulation 23;

(h) whether the office holder is entitled under section 4 of the Measure to be provided by the Board with accommodation;

(i) where the office holder is required, for the better performance of his or her duties, to occupy any particular residence, details of the address of the property concerned, the person or body to whom or which it belongs, the terms of occupation and any contents to be provided by the Board;

(j) the length of notice which the office holder is required to give and, if applicable, receive to terminate the appointment; and

(k) where the appointment is not intended to be permanent, the circumstances in which it may be terminated or, if it is for a fixed term, the date when it is to end.

[(6) A person preparing a statement under this regulation must, in doing so, have regard to any guidance issued by the Archbishops' Council

under regulation 3(6) of the Ecclesiastical Offices (Terms of Service) Regulations 2009[4], so far as applicable to the Isle of Man.]

4. Statement of initial particulars: supplementary

(1) If, in the case of a statement under regulation 3, there are no particulars to be entered under any of the paragraphs of that regulation or any of the heads of any such paragraph, that fact shall be stated.

(2) A statement under regulation 3 may refer the office holder for particulars of any of the matters mentioned in it to these Regulations, to any Measure or Canon, to other regulations of the General Synod or specified provisions thereof or to the provisions of some other document which is reasonably accessible to the office holder.

(3) A statement shall be given to an office holder even if his or her appointment ends before the end of the period within which the statement is required to be given.

5. Note about disciplinary, capability and grievance procedures and pensions

(1) A statement under regulation 3 shall include a note—

(a) in the case of office holders to whom the provisions of the Ecclesiastical Jurisdiction Measure 1963[5] relating to offences or of the Clergy Discipline Measure 2003[6] relating to misconduct apply, specifying those provisions;

(b) in the case of office holders other than those referred to in paragraph (a), specifying any disciplinary rules or procedures applicable to the office held by the office holder; and

(c) in the case of all office holders, specifying any capability or grievance procedures relating to office holders.

(2) A note included in a statement under paragraph (1) may comply with that paragraph by referring the office holder to any such laws or documents as are referred to in regulation 4(2). ...

6. Statement of changes

(1) If, after the material date, there is a change in any of the matters particulars of which are required by regulations 3 to 5 to be included or referred to in a statement under regulation 3, the officer nominated by

[4] SI 2009/2108

[5] 1963 No.1

[6] 2003 No.3

the Bishop or registrar under regulation 3(1) shall give to the office holder a written statement containing particulars of the change.

(2) For the purposes of paragraph (1)—

(a) in relation to a matter particulars of which are included or referred to in a statement given under regulation 3 other than in instalments, the material date is the date to which the statement relates;

(b) in relation to a matter particulars of which are included or referred to in an instalment of a statement given under regulation 3, the material date is the date to which the instalment relates; and

(c) in relation to any other matter, the material date is the date by which a statement under regulation 3 is required to be given.

(3) A statement under paragraph (1) shall be given at the earliest opportunity and, in any event, not later than one month after the change in question.

(4) A statement under paragraph (1) may refer the office holder to any such laws or documents as are referred to in regulation 4(2).

7. Reasonably accessible document

In regulation 4 the reference to a document which is reasonably accessible to an office holder is a reference to a document which—

(a) the office holder has reasonable opportunities of reading in the course of the exercise of his or her office; or

(b) where details of a website have been provided to the office holder, the office holder can gain access to without incurring unreasonable expense; or

(c) is made reasonably accessible to the office holder in some other way.

8. Right to itemised statement of stipend

(1) An office holder to whom a stipend is payable has the right to receive from the person or body who or which is responsible for the payment of the stipend, at or before the time at which any payment of stipend is made to him or her, a written itemised statement of stipend.

(2) The statement shall contain particulars of—

(a) the gross amount of the stipend;

(b) the amounts of any deductions from that gross amount and the purposes for which they are made; and

(c) the net amount of stipend payable.

Enforcement

9. References to Tribunal

(1) Where the officer nominated under regulation 3 does not give an office holder a statement as required by regulation 3 or 6 or where the office holder is not given a statement as required by regulation 8 (either because the person or body concerned gives no statement or because the statement which is given does not comply with what is required), the office holder may require a reference to be made to the Tribunal to determine what particulars ought to have been included or referred to in a statement so as to comply with the requirements of the provision concerned.

(2) Where—

(a) a statement purporting to be a statement under regulation 3 or 6, or a statement of stipend purporting to comply with regulation 8, has been given to an office holder; and

(b) a question arises as to the particulars which ought to have been included or referred to in the statement so as to comply with the requirements of this Part of these Regulations;

either the person or body concerned or the office holder may require the question to be referred to and determined by the Tribunal.

(3) For the purposes of this paragraph—

(a) a question as to the particulars which ought to have been included in the note required by regulation 5 to be included in the statement under regulation 3 does not include any question whether the office is, has been or will be treated as contracted-out employment (for the purposes of Part III of the Pensions Schemes Act 1993); and

(b) a question as to the particulars which ought to have been included in a statement of stipend does not include a question solely as to the accuracy of an amount stated in any such particulars.

(4) The Tribunal shall not consider a reference under this regulation in a case where the appointment to which the reference relates has ended unless an application requiring the reference to be made was made—

(a) before the end of the period of 3 months beginning with the date on which the appointment ended; or

(b) within such period as the Tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the application to be made before the end of that period of 3 months.

10. Determination of references

(1) Where, on a reference under regulation 9, the Tribunal determines particulars as being those which ought to have been included or referred to in a statement given under regulation 3 or 6, the officer nominated under regulation 3 shall be deemed to have given the office holder a statement in which those particulars were included, or referred to, as specified in the decision of the Tribunal.

(2) On determining a reference under regulation 9(2) relating to a statement purporting to be a statement under regulation 3 or 6, the Tribunal may—

(a) confirm the particulars as included or referred to in the statement given by the person nominated under regulation 3;

(b) amend those particulars; or

(c) substitute other particulars for them,

as the Tribunal may determine to be appropriate; and the statement shall be deemed to have been given by that person to the office holder in accordance with the decision of the Tribunal.

(3) Where on a reference under regulation 9 the Tribunal finds—

(a) that the person or body responsible has failed to give an office holder a statement of stipend in accordance with regulation 8; or

(b) that a statement of stipend does not, in relation to any deduction, contain the particulars required to be included in that statement by that regulation;

the Tribunal shall make a declaration to that effect.

(4) Where on a reference in a case to which paragraph (3) applies the Tribunal further finds that any un-notified deductions have been made from the stipend of the office holder during the period of 13 weeks immediately preceding the date of the application for the reference (whether or not the deductions were made in breach of the terms and conditions of the appointment), the Tribunal may order the person or body who or which is responsible for the payment of the stipend to pay the office holder a sum not exceeding the aggregate of the un-notified deductions so made.

(5) For the purposes of paragraph (4) a deduction is an un-notified deduction if it is made without the person or body concerned giving the office holder, in any statement of stipend, the particulars of the deduction required by regulation 8.

PART 3

RIGHT TO STIPEND AND PROVISION OF ACCOMMODATION

Entitlement to stipend

11. Entitlement to stipend of office holders

(1) Subject to paragraph (3), an office holder who is occupying a full-time stipendiary post which is stated to be such in his or her terms of appointment shall be entitled to receive an annual stipend of an amount—

(a) which is not less than the National Minimum Stipend; or

(b) which, together with any income received by the office holder from other sources which is related to or derived from the duties of the office, is not less than the National Minimum Stipend.

[(1A) Any stipend which an office holder who is occupying a full-time stipendiary post as mentioned in paragraph (1) gives up in return for the provision of a benefit under arrangements made with the Board is nonetheless to be treated for the purposes of this regulation as stipend received by the office holder.]

(2) In sub-paragraph (1) "National Minimum Stipend" means the amount specified from time to time by the Archbishops' Council, in exercise of its functions as the Central Stipends Authority, as the National Minimum Stipend, and the circumstances in which income is treated, for the purposes of paragraph (1)(b), as to be taken into account for the purpose of calculating an office holder's entitlement, shall be specified from time to time by the Council in the exercise of those functions.

(3) An office holder who is occupying a part-time post shall be entitled to such stipend as may be specified in the statement of particulars of office given under regulation 3.

(4) Paragraphs (1) and (3) do not apply to an office holder who is serving a sentence of custody following a conviction for a criminal offence.

Provision of accommodation

12. Duties of Board

(1) Where the Board provides a house of residence or other accommodation under section 4 or 6 of the Measure, it shall be under a duty—

(a) to keep the property in repair;

(b) to arrange for a diocesan surveyor to inspect the property at least every 5 years and, in the case of a new building, as soon as possible after the building is provided, and for a report to be submitted to the Board describing the state and condition of the property, including the state and condition of the interior, and the grounds and of any contents of the property provided by the Board;

(c) to send a copy of the surveyor's report to the office holder and, after consulting the office holder, to carry out within a reasonable time any repairs recommended in the report which appear to the Board to be appropriate;

(d) to pay the following rates —

(i) any district rate or special rate levied under the Local Government Act 2006[7] (an Act of Tynwald);

(ii) any rate levied under the Burials Act 1986[8], the Water Act 1991[9] or the Sewerage Act 1999[10] (Acts of Tynwald);

and such other recurring charges as may be specified in the statement of particulars of office given under regulation 3 (or in any statement of changes given under regulation 6);

(e) to insure the property against all such risks as are included in the usual form of house owner's policy relating to buildings.

(2) In this regulation "repairs" means such works of repair and replacement as are needed—

(a) to keep in repair the structure and exterior of the buildings of the property, including doors, windows, drains, gutters and external pipes;

(b) to keep in repair all walls, fences, gates, drives and drains of the property, other than those which some person other than the office holder is wholly liable to repair; and

[7] 2006 c.18
[8] 1986 c.26
[9] 1991 c.24
[10] 1999 c.2

(c) to keep in repair and proper working order—

(i) the installations in the property for the supply of water, gas and electricity, and for sanitation, including basins, sinks, baths and sanitary conveniences;

(ii) the installations in the property for space heating or heating water; and

(iii) any fixtures, fittings and appliances in the property (other than those mentioned in the preceding sub-paragraphs) provided by the Board;

including works of interior decoration necessitated in consequence of such works as aforesaid.

(3) In determining for the purposes of this regulation the standard of repair appropriate to any building regard shall be had to the age, character and prospective life of the building and, in particular, in the case of a building included in the Protected Buildings Register or a building in a conservation area, to the special architectural or historic interest of the building.

(4) In this regulation and regulations 13, 14 and 15 "property" includes any land or other buildings which forms or form part of or is or are ancillary to the house of residence or other accommodation.

13. Rights of entry

The Board or its officers or agents may enter any property which is provided as a house of residence or other accommodation under section 4 or 5 of the Measure on first giving, except in an emergency, reasonable notice to the office holder, to inspect or carry out repairs to the property or to inspect, repair, replace or remove any contents of the property which have been provided by the Board or for such other reasonable purpose as is consistent with the powers and obligations of the Board.

14. Duties of office holder

(1) An office holder who is in occupation of a house of residence or other accommodation provided under section 4 or 5 of the Measure shall be under a duty—

(a) to permit the Board or its officers or agents to enter the property in exercise of the Board's rights under regulation 13;

(b) to use all reasonable endeavours to keep the property and any contents of the property provided by the Board, clean and free

from deterioration, with the exception of fair wear and tear, and to keep any garden or other grounds belonging to the property in a reasonable state of upkeep;

(c) to notify the Board of any works of repair that may from time to time be needed to the property as soon as reasonably practicable after the office holder becomes aware of them;

(d) if required to do so by the Board, to the extent that it is not recoverable under any insurance policy, to pay the whole or part of the reasonable cost of any repairs to the property which a report of a diocesan surveyor as mentioned in regulation 12(1)(b) authorised by the Board specifies to be necessary as the result of damage caused or aggravated by the deliberate act of the office holder or a member of the office holder's household residing with him or her or by a breach of the office holder's obligations under this regulation;

(e) not to use the property except as a private residence for the office holder and his or her household and for such other purposes as may be agreed by the Board, which agreement shall not be unreasonably withheld;

(f) not to make any repairs, alterations or additions to the property without the consent of the Board;

(g) where the property is held on a lease, to observe any term, condition or covenant binding the tenant under the lease and, in any case, to indemnify the Board in respect of any breach by the office holder or by any member of the office holder's household living in the property of any term, condition or covenant binding on the occupier; and

(h) to vacate the property within the period of one month from the date on which the office holder ceases to hold the office or on which he or she takes up a new office, whichever is sooner or within such longer period as the Board may allow and to leave the property clean and tidy and clear of all personal possessions belonging to the office holder or any members of his or her household residing in the property.

(2) If an office holder dies whilst occupying the property, any member of his or her household living in the property at that time may remain in occupation for the period of 3 months from the date of the office holder's death or such longer period as the Board may allow; and any such person shall, for the duration of his or her occupation, be subject

to the same obligations, so far as relevant, under this regulation as is the office holder.

(3) The office holder shall keep the Board informed of matters arising from any notice given to him or her by a Department, Statutory Board, local or other public authority, public utility undertaker or, in the case of property held on a lease or tenancy, the landlord of the property; and the Board shall, unless it agrees otherwise with the office holder, advise on or undertake negotiations in respect of any such matters.

15. Disputes and variation of terms

(1) If there is any dispute about the performance of the respective obligations of the Board and the office holder under section 4, 5 or 6 or regulations 12 to 14 which cannot be resolved by the grievance procedures, it shall be referred for arbitration by a single arbitrator appointed by agreement between the Board and the office holder or, failing agreement, by the Governor and the decision of any arbitrator so appointed shall be final.

(2) The terms of occupation of the property by the office holder may, subject to regulations 12 to 14, be varied by agreement between the Board and the office holder and, where appropriate, the statement of particulars of office shall be amended to reflect any such variation.

Regulated transactions

16. Rights to object to regulated transactions

(1) Where under section 7 of the Measure the Board has served notice on an office holder or other person or body of a regulated transaction any person or body on whom or which notice is served may object to the transaction by giving notice to the Board, stating the grounds of the objection, within the period of 28 days beginning on the next working day after the date of the Board's notice.

(2) Subject to paragraph (3), within the period of 5 days of the receipt of any notice of objection given under paragraph (1), the Board shall send it for consideration to the Commissioners.

(3) If the Board considers that the objection is well founded, it need not refer it under paragraph (2) and shall—

(a) notify the person or body which served the notice accordingly; and

(b) either discontinue any action with respect to the regulated transaction or consider whether to proceed with a different regulated transaction.

(4) The Commissioners shall, after considering the grounds of objection and all relevant circumstances, direct that the transaction shall proceed if the Board satisfies them that any objection should not be upheld and, in any other case, direct that the transaction shall not proceed.

(5) If the Board is satisfied that the issue of any notice under section 7 of the Measure should be dispensed with owing to the urgency of a proposed regulated transaction, or if the Commissioners are satisfied that, owing to the urgency of the transaction, objections should not be considered, the Commissioners may direct that the transaction shall proceed without issuing the notice or consideration of any objections, as the case may be, provided that every person or body on whom notice of the transaction has been served (or is required to be served, as the case may be) agrees.

Service of notices

17. Service of notices

(1) Any notice required or authorised by the Measure or these regulations to be served on, sent or given to a person may be served, sent or given by delivering it to that person, or by leaving it at that person's proper address, or by sending it by post or by facsimile transmission or electronic mail.

(2) The proper address for the purpose of paragraph (1) shall be that person's last known address, except that—

(a) in the case of a secretary or clerk of a corporation, it shall be the registered or principal office of the corporation;

(b) in the case of a parochial church council, it shall be the address of the secretary or acting secretary or, in the absence of such a person, the address of such other person as may be deemed by the person serving the notice to be appropriate.

PART 4

MINISTERIAL DEVELOPMENT REVIEW, EDUCATION AND TRAINING

Ministerial development review and [continuing ministerial development]

18. Ministerial development review

(1) The Bishop shall make, and keep under review, a scheme containing arrangements for a person nominated by him to conduct with each office holder in that diocese a review of his or her ministry to be known

as a "ministerial development review" on at least one occasion in each period of 2 calendar years.

(2) The archbishop of York shall arrange for the Bishop to undertake a ministerial development review on at least one occasion in each period of 2 calendar years.

(3) It shall be the duty of each office holder to co-operate in any ministerial development review undertaken under this regulation.

(4) The Bishop or, as the case may be, the archbishop, shall have regard, in carrying out his functions under paragraphs (1) and (2), to guidance issued by the Archbishops' Council.

(5) The Bishop or, as the case may be, the archbishop, shall keep a written record of the outcome of any ministerial development review and of any relevant matters relating to such a review, which shall be signed by the office holder and the person conducting the review.

19. [Continuing ministerial development]

(1) Each office holder shall be under a duty to participate in arrangements approved by the Bishop or, in the case of the Bishop, by the archbishop of York, as appropriate for the [continuing ministerial development] of that office holder.

(2) The Bishop or, as the case may be, the archbishop, shall have regard, in carrying out his functions under paragraph (1) of approving the arrangements referred to therein, to any guidance issued by the Archbishops' Council.

(3) The Bishop shall be under a duty to use all reasonable endeavours to ensure that every office holder in the diocese is afforded opportunities to participate in such education or training as is appropriate to promote that office holder's ministerial development.

Training

20. Holders of designated training posts

(1) Where an office holder holds an office designated under regulation 29(1)(c) as a training post, the Bishop shall make arrangements so as to ensure that any such officer holder is provided with suitable training and afforded such time off work as is necessary to undertake it.

[(1A) During any period for which an office referred to in paragraph (1) continues to be designated as a training post under regulation 29(3A), the duty in paragraph (1) does not apply, but the duty in paragraph 19(1) does apply, in relation to the office.]

(2) An office holder who holds an office referred to in paragraph (1) shall be under a duty to use all reasonable endeavours to participate in and complete any training which is required to be provided to him or her under that paragraph.

PART 5

TIME OFF WORK, TIME SPENT ON OTHER DUTIES AND SICKNESS

Time off and annual leave

21. Weekly rest period

An office holder shall be entitled to an uninterrupted rest period of not less than 24 hours in any period of 7 days, but the statement of particulars of office issued under regulation 3 may specify that any rest period may not be taken on or include a Sunday or any or all of the principal Feasts of the Church of England or Ash Wednesday or Good Friday.

22. Annual leave

(1) An office holder occupying a full-time post shall be entitled to 36 days annual leave or such greater amount as may be specified in the statement of particulars of office in any calendar year without any deduction of any stipend to which the office holder is entitled, but the statement of particulars may specify particular days on which annual leave shall or may not be taken and may, in particular, specify the maximum number of Sundays on which annual leave may be taken.

(2) During the first calendar year of the appointment, the amount of leave which an office holder may take at any time in exercise of the entitlement under paragraph (1) is limited to the amount which is deemed to have accrued in his or her case at that time under paragraph (3), as modified by paragraph (4) where that paragraph applies, less the amount of leave (if any) that he or she has already taken during that year.

(3) For the purposes of paragraph (2) leave is deemed to accrue over the course of the first year of the appointment at a rate which is proportionate to the proportion of the calendar year remaining after the date on which the appointment begins.

(4) Where the amount of leave that has accrued in a particular case includes a fraction of a day the fraction shall be treated as a whole day.

(5) For the purposes of paragraph (1), the amount of leave allowed by that paragraph shall exclude any period of special leave allowed by the

Bishop (or in the case of the Bishop, the archbishop of York), including any such leave granted for the purposes of removal and re-settlement.

(6) Paragraphs (3) and (4) shall apply during the final calendar year of the appointment as they apply during the first such year.

(7) An office holder occupying a part-time post shall be entitled to such period of annual leave as may be specified in the statement of particulars of office given to the office holder under regulation 3 and paragraphs (2) to (5) shall apply accordingly.

Maternity, paternity, parental and adoption leave and time spent on public duties

23. [Maternity, parental, adoption etc. leave and time off

(1) An office holder is entitled to maternity, paternity, parental and adoption leave for the same periods and subject to the same conditions as apply in the case of an employee under the 2006 Act or regulations made under that Act.

(2) Before exercising an entitlement under paragraph (1), an office holder must, in consultation with a responsible person or authority, use all reasonable endeavours to make arrangements for the duties of the office to be performed by another person or persons during the period of leave.

(3) An office holder may request the Bishop to allow him or her to take time off work or to make adjustments to the duties of the office to care for a dependant.

(4) A request under paragraph (1) must be in writing, and the Bishop may impose such other conditions as he thinks fit as to the manner in which the request is to be made, including as to the supply of information with the request.

(5) The Bishop must consider a request under paragraph (3); and when doing so must consult the parochial church council of each parish belonging to the benefice concerned.

(6) Where the Bishop decides to grant a request under paragraph (3), he may —

(a) give such time off work or adjustments to the duties of the office as appears to him to be reasonable; and

(b) impose reasonable conditions on the grant of the request, including any appropriate variations in the stipend which would otherwise be payable to the office holder.

(7) In this paragraph "dependant" means, in relation to an office holder—

(a) a spouse or civil partner,

(b) a child,

(c) a parent,

(d) a person who lives in the same household as the office holder, otherwise than by reason of being his or her employee, tenant, lodger or boarder;

(e) if the care consists of providing assistance in case of illness or injury, a person who reasonably relies on the office holder to provide such assistance.]

[**23A. Additional payments**

(1) This regulation applies to an office holder who would be entitled to a stipend if he or she were not exercising a right to maternity, paternity or adoption leave under regulation 23(1).

(2) An office holder exercising a right to maternity or adoption leave is entitled, in respect of each week of leave (not exceeding 26 weeks in all), to be paid a weekly amount equal to one-fifty-second of his or her annual stipend, less any maternity or adoption allowance (as the case may be) to which he or she is entitled in respect of that week under social security legislation for the time being in force.

(3) An office holder exercising a right to paternity leave is entitled, in respect of each week of leave (not exceeding 2 weeks in all), to be paid a weekly amount equal to one-fifty-second of his annual stipend, less any paternity allowance to which he is entitled in respect of that week under social security legislation for the time being in force.

(4) Payments under this regulation are to be made monthly in arrear by the person or body who or which is responsible for the payment of the stipend.]

24. Right to time spent on public duties

(1) An office holder may, subject to paragraph (2), spend time on public duties other than the duties of his or her office.

(2) The amount of time which an office holder may spend on public duties under this regulation, the occasions on which and any conditions subject to which the time may be spent, are those that are reasonable in all the circumstances, having regard, in particular, to—

(a) how much time is required for the performance of the particular public duty;

(b) how much time has already been spent on public duties under this regulation;

(c) the nature of the office and its duties and the effect of the absence of the office holder on the performance of the duties of the office; and

(d) any remuneration which the office holder is entitled to receive in connection with the duties of the office.

(3) In the event of any dispute as to any of the matters referred to in sub-paragraph (2), the matter shall be determined by the Bishop or, in the case of the Bishop, the archbishop of York.

(4) In this regulation "public duties" means—

(a) any work done for a public authority, including membership of a court or tribunal, or for a charity; and

(b) any work done in connection with the activities of a trade union registered under the Trade Unions Act 1991[11] (an Act of Tynwald) and representing office holders of a description which includes the person in question.

25. Right to time off for ante-natal care

(1) An office holder who—

(a) is pregnant; and

(b) has, on the advice of a registered medical practitioner or registered midwife, made an appointment to attend at any place for the purpose of receiving ante-natal care;

is entitled to take time off during her working hours in order to enable her to keep the appointment.

(2) As soon as is reasonably practicable after the office holder's pregnancy is confirmed, she shall notify the officer of the diocese nominated under regulation 3(1)(a).

26. Payment of stipend during time off or time spent on public duties

(1) An office holder who takes any time off or spends time on public duties to which he or she is entitled under regulation 24 or 25 and who is, under the terms of his or her service, entitled to the payment of a stipend, shall not suffer any reduction in his or her stipend during the time off or time spent on public duties, as the case may be, except, in the case of time spent on public duties, such reduction, if any, as may

[11] 1991 c.20

be specified in the statement of particulars of office given under regulation 3 (including any statement of changes given under regulation 6).

Sickness

27. Sickness

(1) If an office holder [who is in receipt of a stipend] is unable to perform the duties of his or her office because of illness for a period of one working day or longer he or she must report the absence to the person nominated for the purposes of this regulation, who shall inform the Board and, if the report is in writing, send it a copy thereof.

(2) The person nominated under paragraph (1) shall be nominated —

(a) in the case of an office holder other than the Bishop, by the Bishop; and

(b) in the case of the Bishop, by the registrar of the province of York.

(3) If an office holder [who is in receipt of a stipend] is absent from work because of illness for a continuous period of more than 7 days he or she must supply the person nominated as aforesaid with a certificate signed by a qualified medical practitioner and that person shall send a copy of the certificate to the Board.

(4) In the case of the Bishop, for the references in paragraphs (1) and (3) to the Board there shall be substituted references to the Church Commissioners for England.

(5) An office holder who is absent from work because of illness must use all reasonable endeavours to make arrangements for the duties of the office to be performed by another person during the absence which may, where appropriate, consist of notifying a responsible person or authority of the absence.

(6) An office holder who is absent from work for a period not exceeding 26 weeks, or for periods amounting in the aggregate to not more than 26 weeks, shall be entitled during that period to receive in full any stipend which is payable in respect of the office.

(7) The Bishop or, in the case of the Bishop, the archbishop of York may, if he is satisfied that the office holder is, by reason of illness, unable adequately to discharge the duties of his or her office, permit the office holder to be absent from work for such period as he thinks appropriate and may make provision for the discharge of those duties during the period of absence of the office holder.

(8) In determining whether, and to what extent, any stipend should be payable to an office holder is absent from work for illness for a period exceeding 26 weeks, or for periods amounting in the aggregate to more than 26 weeks, the Board shall have regard to directions made from time to time by the Archbishops' Council in the exercise of its functions as the Central Stipends Authority.

28. Medical examination

(1) The Bishop or, in the case of the Bishop, the archbishop of York may, if he has reasonable grounds for concern about the physical or mental health of an office holder, direct that the office holder shall undergo a medical examination by a medical practitioner selected by agreement between the Bishop (or archbishop) and the office holder or, in default of agreement, by medical practitioners consisting of a practitioner chosen by each party.

(2) If an office holder fails to comply with a direction given under paragraph (1) or fails to disclose or authorise the disclosure of any relevant medical records, when requested to do so, any person or body responsible for operating any capability procedures in respect of the office holder may draw such inferences as appear to that person or body to be appropriate having regard to all the circumstances.

PART 6

DURATION AND TERMINATION OF APPOINTMENTS AND COMPENSATION

Limited appointments and termination of appointments

29. Fixed and other limited term appointments

(1) A person who holds or is to hold office under Common Tenure may be appointed for a fixed term or under terms which provide for the appointment to be terminated on the occurrence of a specified event if —

(a) the office holder occupies a post which is designated as a post created in order to cover an office holder's authorised absence from work; […]

(c) the office is designated as a training post;

(d) the office is designated as a post subject to sponsorship funding;

(e) the office is designated as a probationary office;

[(ea) the office is created by a bishop's mission order under Schedule 6A to the Mission and Pastoral Measure (Isle of Man) 2012;]

(f) the office holder holds a post which is designated as a post which is held in connection or conjunction with another office or employment; […]

(g) the office holder does not have the right of abode, or unlimited leave to enter or remain, in the Isle of Man, [or

(h) the office is designated as an interim post,] […]

(2) Where a person holds office in any circumstances mentioned in paragraph (1) the statement of particulars of office required to be given to the office holder under regulation 3 shall, in addition, contain particulars of any relevant term mentioned in that paragraph.

(3) An office may be designated as a training post if the office holder is required by the Bishop to undertake initial ministerial education.

[(3A) An office designated as a training post may continue to be designated as such for a period of no more than one year following the completion by the office holder of the initial ministerial education.]

(4) An office may be designated as a post subject to sponsorship funding if —

(a) the holder of the post is a person referred to in section 1(1)(g) or (h) of the Measure (other than a vicar in a team ministry); and

(b) any part of the cost of the holder's stipend or other remuneration, pension, housing accommodation or other expenses is defrayed by a person or body other than the Board or a parochial church council.

(5) An office may be designated as a probationary office if, on the date of the appointment of the office holder to the office, the office holder has not held any ecclesiastical office in any place during the period of 12 months immediately preceding that date.

(6) An office may be designated as a probationary office if the office holder has been removed from a previous office by a final adjudication under the capability procedures and the office designated as a probationary office under this paragraph is the first office occupied by the office holder after his or her removal from office.

(7) An office may be designated as a probationary office if—

(a) the office holder has been the subject of a complaint under the Ecclesiastical Jurisdiction Measure 1963 and has had a censure of

prohibition, inhibition or suspension imposed on him or her or he or she has resigned; or

(b) the office holder has had imposed on him or her a penalty of removal from office, prohibition for a limited term or revocation of his or her licence under the Clergy Discipline Measure 2003 or he or she has resigned in accordance with that Measure,

and appointment to the office is made on the recommendation of the Bishop with a view to facilitating his or her return to the ministry.

[(7A) An office may be designated as an interim post if the designation is in writing and signed by the Bishop acting with the consent of—

(a) the office holder, and

(b) the Church Commissioners for the Isle of Man.

(7B) In deciding whether to designate an office as an interim post, the Bishop shall have regard to any guidance issued by the Archbishops' Council.

(7C) The term of an office designated as an interim post may not exceed 3 years.

(7D) An office designated as an interim post may be designated as such again for a further period of up to 3 years; but an appointment may not be made to an office designated as such if it was designated as such on the 2 immediately preceding appointments.]

(8) The term of office of any office holder appointed for a fixed term or until the occurrence of a specified event shall terminate on the expiry of the fixed term (unless that term is extended for a further period or periods) or on the occurrence of the event, as the case may be.

[**29A. Holding office beyond the age of 70**

(1) A person who holds or is to hold office under Common Tenure and has attained the age of 70 years may be appointed, or may have his or her appointment continued, for a fixed term or under terms which provide for the appointment to be terminated on the occurrence of a specified event if the person occupies a post by virtue of a direction given under this regulation.

(2) The Archbishop of York may give a direction for the person holding the office of Bishop who has attained the age of 70 years to continue to hold that office for the period specified in the direction.

(3) The Bishop may give a direction for a person holding the office of Archdeacon who has attained the age of 70 years to continue to hold that office for the period specified in the direction.

(4) The Bishop may direct that a person who has attained the age of 70 years may —

(a) hold or continue to hold the office of incumbent of a benefice, or

(b) hold or continue to hold an office under a licence granted by the Bishop,

for the period specified in the direction (including in a case where the person was holding the office immediately before attaining that age).

(5) The power to give a direction under a paragraph of this regulation includes, in the case of a person holding office by virtue of a previous direction under that paragraph, a power to give one or more further directions under that paragraph.

(6) The period specified in a direction given under paragraph (2) or (3) —

(a) must begin with the day on which the person attains the age of 70 years or, where the person is holding the office by virtue of a previous direction given under that paragraph, immediately after the end of the period specified in that previous direction, and

(b) must end on the date, or on the occurrence of an event, specified in the direction but must not extend beyond the day on which the person attains the age of 75 years.

(7) The period specified in a direction given under paragraph (4)—

(a) must begin on or after the day on which the person attains the age of 70 years or, where the person is holding the office by virtue of a previous direction given under that paragraph, immediately after the end of the period specified in that previous direction, and

(b) must end on the date, or on the occurrence of an event, specified in the direction (and may extend beyond the day on which the person attains the age of 75 years),

(8) The Archbishop of York or the Bishop may not give a direction under this regulation unless he or she considers that the person in question will be capable of performing the duties of the office throughout the period for which the person is to hold the office.

(9) The Bishop may not give a direction under paragraph (4) in the case of a person holding the office of incumbent or priest in charge of, or vicar in a team ministry for, a benefice or the office of assistant curate unless the Bishop —

(a) considers that the pastoral needs of the parish or parishes concerned or of the diocese make it desirable to give the direction, and

(b) has obtained the consent of the parochial church council of the parish or each of the parishes concerned.

(10) In deciding whether to give a direction under this regulation, the archbishop of York or the Bishop shall have regard to any guidance issued by the Archbishops' Council.

(11) A direction given under this regulation must be in writing.]

Compensation for loss of certain offices

30. Posts subject to potential pastoral reorganisation and priests-in-charge

(1) Where—

(a) an office holder is appointed to hold office as an archdeacon or incumbent or a vicar in a team ministry; and

(b) at the time when the appointment is made, the Commissioners have invited the views of the interested parties before submitting proposals to the Bishop in accordance with [paragraph 2 of Schedule 2 to the Mission and Pastoral Measure (Isle of Man) 2012[12] ("the 2012 Measure")] for inclusion in a draft pastoral scheme or order which might affect the office;

the Bishop may designate the office as an office which is subject to potential pastoral reorganisation and the statement of particulars required to be given to the office holder under regulation 3 shall contain a declaration of that designation.

[(2) If an office designated under paragraph (1) above ceases to exist in consequence of a pastoral scheme and the office holder is in receipt of a stipend or other emoluments, the office holder shall be entitled to compensation under Schedule 6 to the 2012 Measure.

(2A) For that purpose, any periodical payments or lump sum payable under paragraph 5(1) of Schedule 6 to the 2012 Measure, and any entitlement in respect of a period of service deemed by paragraph 11(1)(a) of Schedule 4 to the Mission and Pastoral Measure 2011[13] to be a period of pensionable service for the purposes of the latter Measure, shall be calculated on the basis of the loss of one year's service.]

[12] SD 0654/12

[13] 2011 No.3

(3) If, following the designation of an office under paragraph (1), no pastoral scheme […] is made affecting the office within such period not exceeding 5 years immediately following the appointment of the office holder as may be specified by the Bishop, the Bishop shall notify the office holder that the office is no longer designated under that paragraph.

(4) Where notification is given to the office holder under paragraph (3), [section 37 of and Schedule 6 to the 2012 Measure] shall apply to the office holder [(and paragraph (2A) shall not apply)].

(5) [Paragraphs (2) and (2A)] shall also apply to any other office holder whose office ceases to exist in consequence of a pastoral scheme […] and who is not otherwise entitled to compensation under [section 37 of and Schedule 6 to the 2012 Measure].

(6) Where the licence of a priest-in-charge appointed to a benefice during a vacancy is revoked, in accordance with section 3(4) of the Measure, the priest-in-charge shall be entitled to compensation calculated on the same basis as that on which compensation is calculated under [paragraphs (2) and (2A)].

PART 7

CAPABILITY PROCEDURES

31. Capability procedures

(1) The Bishop may, if he considers that the performance of an office holder affords grounds for concern, instigate an inquiry into the capability of an office holder to perform the duties of his or her office in accordance with the following provisions of this regulation.

(2) In the case of the Bishop, an inquiry may be instigated under paragraph (1) by the archbishop of York.

(3) An office holder who is the subject of an inquiry under paragraph (1) shall be entitled, before the inquiry begins, to be informed in writing of —

(a) any matters relating to the office holder's performance which are to be taken into account in assessing his or her performance;

(b) the procedure which is to be followed in assessing his or her performance, which shall include the opportunity of a meeting between the office holder and the person or authority which is to carry out the procedure and the appointment of a panel or other

body to adjudicate on issues concerning the officer holder's capability;

(c) the identity of the person or authority who or which is to carry out the procedure;

(d) any action which may be taken following the completion of the procedure; and

(e) the office holder's rights of appeal against the decision to take any action against the office holder.

(4) Any inquiry instituted under paragraph (1) shall be conducted in accordance with any relevant code of practice issued under section 8 of the Measure as it has effect in England and for the time being in force, so far as it is applicable to the Isle of Man.

PART 8

UNFAIR DISMISSAL

Rights on unfair dismissal

32. Right to apply to Tribunal

(1) Where the appointment of an office holder has been terminated by notice given under section 3(6) of the Measure following adjudication under procedures carried out under regulation 31, the office holder shall have the right not to be unfairly dismissed.

(2) Part X of the 2006 Act shall apply in relation to an office holder who is dismissed in the circumstances described in paragraph (1) as it applies to an employee who is dismissed for a reason relating to the capability of the employee in accordance with section 103(2) of the 2006 Act, subject to the modifications in paragraphs (3) to (5).

(3) References in the 2006 Act to a matter specified in column 1 below shall be construed as references to the corresponding matter specified in column 2 —

an employee	the office holder
an employer	the Board
employment	the holding of an office

(4) For the purposes of the 2006 Act —

(a) the office holder shall be treated as having been dismissed by the Board;

(b) the reason or principal reason stated in the notice referred to in paragraph (1) shall be treated as the reason or principal reason for the dismissal; and

(c) the office holder shall be treated as if the period of continuous holding of the office were the period beginning with the date on which the office holder was appointed and ending with the date of the notice referred to in paragraph (1).

(5) Section 132(1) and (2) of the 2006 Act shall not apply.

(6) This regulation shall not apply to any office holder who has attained the retirement age specified in relation to the office holder's office in section 8 of the Church Act 1992 (an Act of Tynwald).

MADE 18th May 2012

THE COMMON SEAL of the Sodor and Man Diocesan Board of Finance is hereunto set in the presence of: L.S.

✠ *Robert Sodor as Mannin*

Chairman

Sylvia Lawrinson

Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision for the terms of service of the holders of ecclesiastical office who under the Ecclesiastical Offices (Terms of Service) Measure 2009 are subject to Common Tenure. They confer rights on office holders which, in many respects, are comparable to those enjoyed by employees.

Part 2 confers entitlements on office holders to be given particulars of the terms of their appointment and information about disciplinary, capability and grievance procedures.

Part 3 confers on a full-time stipendiary office holder a right to be paid a stipend of not less than the National Minimum Stipend and sets out the rights and obligations of office holders and the Sodor and Man Diocesan Board of Finance with regard to accommodation. The office holder is given the right to object to certain transactions proposed to be carried out in relation to a house of residence occupied by the office holder and provision is made for the resolution of disputes.

Part 4 makes provision for the ministerial development review, education and training of office holders.

Part 5 confers entitlements to time off work for maternity, paternity, parental and adoption leave, time off to care for dependants and time off for the performance of public duties, and makes provision for sickness.

Part 6 relates to fixed and limited term appointments and makes provision for the compensation of office holders whose office is potentially affected by pastoral schemes or orders under the Pastoral Measure 1983.

Part 7 provides for procedures for assessing the capability of an office holder to perform his or her duties.

Part 8 confers a right on an office holder who has not reached the retirement age not to be unfairly dismissed where his or her appointment has been terminated following the application of the capability procedures. Part X of the Employment Act 2006 is applied, with modifications, so as to enable an office holder to have a claim for unfair dismissal heard by the Employment Tribunal.