

YOUR CHURCH AND THE LAW OF THE ISLE OF MAN

A COMMENTARY ON *YOUR CHURCH AND THE LAW (2nd ed)*

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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.¹

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

p.10 The Data Protection Act 1998 and Marriage Act 1949 do not extend to the Isle of Man. Similar provision is made by the *Data Protection Act 2002* and *Marriage Act 1984* (of Tynwald).

p.11 Legislation and other materials relating to Manx church law are available at <http://www.gumbley.net/mclintro.htm>

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 Measure (Isle of Man) 2013*. To be qualified for appointment a person must be (i) baptised, (ii) on the church electoral roll of the parish, (iii) an actual communicant member of the Church of England (unless the Bishop otherwise permits), (iv) at least 18 years old and (v) not disqualified by reason of certain convictions, bankruptcy etc.

The number of churchwardens in each parish is fixed by a scheme made by the Church Commissioners for the Isle of Man:

¹ See further K F W Gumbley, *Church Legislation in the Isle of Man*, (1994) 3 Ecc LJ 240 (<http://www.gumbley.net/article.htm>)

<i>Parish</i>	<i>Churchwardens</i>
All Saints Douglas	2
Arbory and Castletown*	4
Braddan*	4
Bride, Lezayre and North Ramsey*	6
Lonan and Laxey*	4
Malew and Santan*	8
Marown, Foxdale and Baldwin*	6
Maughold and South Ramsey*	6
Onchan*	4
Rushen*	4
St George Douglas	2
St Matthew Douglas	2
St Ninian Douglas	2
St Thomas Douglas	2
The Northern Plain*	8
The West Coast*	10

Churchwardens are elected annually at a meeting of the 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, (ii) persons whose names are on the register of electors by reason of residence in the ecclesiastical parish, and (iii) in the case of the parishes marked * in the above table, persons whose names are on the register of electors by reason of residence in an ancient parish for whose burial grounds the churchwardens are responsible.

- p.13 In the parishes in which there are parish burial grounds, the churchwardens 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 ancient parish to which the burial ground belongs. They are required to prepare accounts for each year ended 31 March, which are subject to audit under the *Audit Act 2006* (of Tynwald).
- p.16 The section referred to in footnotes 21 and 22 does not extend to the Isle of Man, but similar provision is made by s.5 of the *Churchwardens Measure (Isle of Man) 2013*.

A churchwarden takes office (both as churchwarden and as an *ex-officio* member of the PCC) at the end of the meeting of the parishioners at which he or she is elected, but goes out of office on 1st August unless he or she has previously taken the oath of office at a Chapter Court held by the Vicar General.

- p.17 Rule 18 of the CRR does not extend to the Isle of Man, and no provision is made for deputy churchwardens.

A churchwarden may resign by 2 months' notice to Bishop, and ceases to be a churchwarden if he or she ceases to be qualified or becomes disqualified.

- p.18 The minister has no power to appoint a churchwarden. He or she, if present, is to chair the meeting of the parishioners, but has no vote.
- p.20 For the text of the *Churchwardens Measure (Isle of Man) 2013* see <http://www.gumbley.net/cmim2013.htm>

4. APCMs

- p.28 At items 5 and 6 in the agenda, for 'deanery synod' read 'diocesan synod' (see notes on pp.33-34).
- p.29 The Charities Act 1993 does not extend to the Isle of Man. No annual report is required. The following accounts must be published not later than 7 days before the APCM and presented to the APCM:—
- the examined accounts of the PCC, including the accounts of all trusts administered by it, for the year ending on 31st December immediately preceding the meeting;
 - an examined statement of the funds and property, if any, remaining in the hands of the PCC at that date;
 - the accounts of every ecclesiastical charity administered by the incumbent and churchwardens for the year ending on that date; and
 - a statement of the funds and property of every such charity at that date.
- p.30 No postal voting is allowed for elections at an APCM in the Isle of Man.
- p.31 The accounts and statements referred to in the note to p.29 must be sent to the Diocesan Board of Finance not later than 14 days after the APCM.
- p.32 The text of the *Church Representation Rules* as they have effect in the Isle of Man is at <http://www.gumbley.net/crr.htm> The text issued by Church House Publishing, and that published online, state the CRR as they have effect in England, and cannot be relied on in the Isle of Man. There is no requirement for an annual report.

5. PCCs

- p.33 Ignore the reference to lay members of deanery synods (which no longer exist in the Isle of Man).
- 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.13 above) and item 20.

p.39 Church Representation Rules: see note on p.32 above.

p.41 District church councils cannot be set up in the Isle of Man. However, the PCC can constitute local committees.

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).

Parsonage houses in the Isle of Man are now owned and maintained by the Diocesan Board of Finance.

p.43 There is no maximum number of members of a PCC in the Isle of Man.

p.44 A commentary on McMorran & Briden's *Handbook*, noting the differences between English and Manx law, is at <http://www.gumbley.net/briden.pdf>

7. Marriage

p.53 The 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).

p.56 A "qualifying connection" is not sufficient for a marriage in the Isle of Man, as the Church of England Marriage Measure 2008 does not extend to the Island.

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.57 The guide referred to deals only with the law of England and Wales. An equivalent guide for the Isle of Man, *Anglican Marriage in the Isle of Man: A Guide to the Law for Clergy*, is available at http://www.gumbley.net/marriageguide_2011.pdf

p.59 A special licence cannot be granted by the Archbishop of Canterbury for a wedding in the Isle of Man. For the procedure for obtaining a special licence of the Bishop of Sodor and Man, see <http://www.gumbley.net/special.htm>

p.60 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.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 was not recognised under Manx law until 6 April 2011, when a procedure for entering into a civil partnership was introduced. A civil partnership cannot be entered into in an Anglican church.

As to the "Yellow Book", see note to p.57 above.

- p.65 The Bishop of Sodor and Man has issued guidelines with regard to marriages of non-EEA nationals, and guidance has also been issued by the Isle of Man Passport and Immigration Office. See <http://www.gumbley.net/weddings.htm>
- p.67 The Act referred to in footnote 46 does not extend to the Isle of Man, but similar provision is made by the *Marriage Act 1984* (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_2011.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.72 In the Isle of Man a person not resident in the parish but on the church electoral roll has no right to be buried in the parish burial ground, as the Church of England (Miscellaneous Provisions) Measure 1976 s.6, which conferred that right in England, does not extend to the Island.
- p.76 A faculty is not required for the reservation of a grave space. The churchwardens have power to sell a portion of the parish burial ground as a private grave space under the *Burials Act 1986* (of Tynwald).
- 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, not the PCC.

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 42-48 did not extend to the Isle of Man, but similar provision was made by two Measures passed by the Sodor and Man Diocesan Synod (see note on p.7 above), which have now been superseded by the Ecclesiastical Offices (Terms of Service) Measure 2009 (see note on p.94 below).

10. Clergy Appointments and Terms of Service

- p.94 The new terms of service came into force in the Isle of Man on 1st January 2013. The Ecclesiastical Offices (Terms of Service) Measure 2009 is modified in its application to the Isle of Man. See http://www.gumbley.net/eotsm_mod.htm

- p.95 The Crown is the patron of a number of benefices in the Isle of Man, but the Crown's rights of presentation have now been delegated to the Bishop.
- p.100 See note to p.94 above.
- p.101 The Regulations referred to in footnotes 18-32 and 62 do not extend to the Isle of Man, but similar regulations are in force. See <http://www.gumbley.net/mclintro.htm>
- p.107 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. 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>

11. Clergy Discipline

- p.112 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>, <http://www.gumbley.net/cdrules.htm>

13. Rural Deans

- p.127 Rural deaneries, and the office of rural dean, were abolished in the Isle of Man as from 1st January 2013. The place of rural deaneries has been taken by groupings of parishes called "mission partnerships", and the role of the rural dean has been assumed by the "team leader" of the mission partnership. See http://www.gumbley.net/mission_partnerships.pdf
- p.129 Deanery synods no longer exist in the Isle of Man.

14. Faculties

- p.135 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.137 In the Isle of Man the equivalent to a 'listed building' is a building entered in the Protected Buildings Register. See note on p.143 below. No statement of need or statement of significance is required.
- p.138 English Heritage and the amenity societies do not have any legal role in the Isle of Man.
- p.139 The petition for a faculty is referred to as an "application". For the forms and procedure, see the Faculty Jurisdiction Rules (Isle of Man) 2010 at <http://www.gumbley.net/mclintro.htm>
- p.140 Normally no fee is payable on an application for a faculty in the Isle of Man.

p.143 There is no 'ecclesiastical exemption' applying to registered buildings in the Isle of Man (see note on p.137 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.156 Copyright law in the Isle of Man is similar to that in force in England.

16. Parish finance

p.163 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.166 There is no requirement for an annual report. The accounts to be presented to the APCM are set out in the Church Representation Rules (see note on p.29 above).

p.168 While this analysis of 'funds' is a useful guide for accounting purposes, it has no legal force in the Isle of Man.

p.169 All PCC accounts are required to be examined by an independent qualified examiner. Accounts of trusts administered by incumbents and churchwardens are required to be examined only if the annual income exceeds £25,000. (The burial ground accounts of the churchwardens are subject to public audit under the Audit Act 2006, as noted to p.13 above.).

p.173 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.174 Ministers' fees are fixed locally. For the current table of fees see <http://www.gumbley.net/registry.htm>

p.175 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.185 The provisions relating to mission orders do not extend to the Isle of Man.

18. Employing staff

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

Employment (Sex Discrimination) Act 2000 (of Tynwald)	Prevents discrimination in employment on grounds of sex of marital status (special provision for ministers of religion)
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Race Relations Act 2004 (of Tynwald)	Prevents discrimination on grounds of race
Disability Discrimination Act 2006 (of Tynwald)	Prevents discrimination on grounds of disability (not yet in force)
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
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.191 The *Employment Act 2006* (of Tynwald) confers similar rights to the 1996 Act referred to.

p.192 There is no entitlement to 'statutory sick pay' in the Isle of Man.

19. Working with volunteers

p.200 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.202 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. Safeguarding Children and Adults

p.204 The legislation referred to in this chapter does not extend to the Isle of Man. However, voluntary arrangements for safeguarding children and vulnerable adults are in force in the diocese of Sodor and Man, based on those operating in England.

21. Health and safety

p.222 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 <https://www.gov.im/categories/business-and-industries/health-and-safety-at-work/>

p.223 The 1999 regulations referred to at footnote 3 do not apply to the Isle of Man, but equivalent regulations of 2003 do apply (see <https://www.gov.im/media/622283/managementhsregs.pdf>)

- p.224 None of the safety regulations referred to at footnotes 5 to 8 and 10 apply to the Isle of Man.
- p.228 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 https://www.gov.im/media/299461/food_hygiene_regulations_2007.pdf
- p.232 None of the 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.233 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.

A fire certificate is required under the *Fire Precautions Act 1975* (of Tynwald) and the *Fire Precautions (Entertainment Premises) Order 1997* for premises used for any public entertainment (including plays, films, music and dancing), but not for a church. See <https://www.gov.im/categories/home-and-neighbourhood/emergency-services/fire-and-rescue-service/business-fire-safety/>

22. Data protection

- p.236 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 Information Commissioner of the handling of personal data. See <https://www.inforights.im/>

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