



# Ecclesiastical Offices (Terms of Service) Measure 2009

2009 No. 1

VALID FROM 31/01/2011

## 1 Common Tenure

- (1) Subject to the provisions of this section, this Measure shall apply to each of the following holders of ecclesiastical offices—
- (a) the Archbishops of Canterbury and York;
  - (b) any diocesan bishop;
  - (c) any suffragan bishop;
  - (d) any dean, residentiary canon or other person in holy orders holding a stipendiary office in a cathedral;
  - (e) any archdeacon;
  - (f) any incumbent;
  - (g) any person in holy orders who exercises his or her office or ministry in accordance with a licence from the bishop of the diocese in which the office is exercised issued under any Canon of the Church of England; and
  - (h) any deaconess, reader or lay worker who exercises his or her office or ministry in accordance with a licence from the bishop of the diocese in which the office is exercised issued under any Canon of the Church of England and who receives a stipend or other emoluments of office (including the provision of accommodation) in respect of his or her office,
- who—
- (i) in the case of any such person as is referred to in paragraphs (a), (g) and (h) above, holds office on or is appointed to his or her office after the coming into force of this section,
  - (ii) in the case of any residentiary canon appointed for a term of years, holds office on the coming into force of this section, and

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- (iii) in the case of any other person referred to in this subsection, holds office on the coming into force of this section and has agreed to the application of this Measure to him or her in accordance with subsections (4) and (5) below or is appointed to his or her office after the coming into force of this section.
- (2) Any person to whom this Measure applies shall hold his or her office in accordance with terms of service specified in Regulations.
- (3) The terms of service under which persons to whom this Measure applies hold office shall be known as Common Tenure.
- (4) As soon as practicable after the coming into force of this section—
- (a) each archbishop shall notify, in writing, every diocesan bishop holding office in his province on that date, and
  - (b) each diocesan bishop shall notify, in writing, each suffragan bishop and every person referred to in subsection (1)(d) to (f) above (other than a person referred to in sub-paragraph (ii) of that subsection) holding office in his diocese on that date,
- requesting him or her to indicate whether or not that person agrees to the application of this Measure to him or her and, if so, to make a declaration in writing to that effect.
- (5) As soon as the archbishop or, as the case may be, the bishop has received a declaration in accordance with subsection (4) above this Measure shall, with immediate effect, apply to the person who made the declaration and that person shall be informed, in writing, accordingly.

## 2 Regulations

- (1) The Archbishops' Council shall, in accordance with the following provisions of this section, by Regulations make provision for the terms of service of persons holding office under Common Tenure (in this Measure referred to as “office holders”).
- (2) Without prejudice to the generality of subsection (1) above Regulations may—
- (a) provide, in such circumstances as may be specified in the Regulations, for appointments of limited duration;
  - (b) confer rights and obligations on office holders and other persons and bodies, including protection for office holders against unfair dismissal;
  - (c) provide for the terms on which housing is provided for office holders and for the respective rights, powers and obligations of office holders and the providers of housing to them;
  - (d) provide for procedures to assess the performance of office holders, including remedies for inadequate performance;
  - (e) provide for rights of review or appeal and the use of employment tribunals to adjudicate on disputes;
  - (f) provide for specified persons or bodies to be responsible for bringing or defending proceedings and for the payment of costs, expenses and compensation; and
  - (g) provide for different cases and circumstances and contain transitional, incidental and consequential provisions.

[<sup>F1</sup>(2A) Regulations may provide for the exercise of a discretion.]

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- (3) Regulations may apply, amend or adapt any enactment or instrument.
- (4) If Regulations make provision, in accordance with subsection (2)(e) above, for the use of employment tribunals, the tribunals shall have jurisdiction in respect of proceedings for which the Regulations make provision and section 2 of the Employment Tribunals Act 1996 (c. 17) shall have effect as if the jurisdiction conferred thereby included jurisdiction conferred by or under a Measure.
- (5) A draft of any Regulations proposed to be made shall be laid before the General Synod and, if they are approved by the General Synod, whether with or without amendment, the draft Regulations as so approved shall be referred to the Archbishops' Council.
- (6) Where draft Regulations are referred to the Archbishops' Council under subsection (5) above then—
- (a) if they have been approved by the General Synod without any amendment, the Archbishops' Council shall, by applying its seal, make the Regulations;
  - (b) if they have been approved by the General Synod with amendment, the Archbishops' Council may either—
    - (i) by applying its seal make the Regulations as so amended, or
    - (ii) withdraw the draft Regulations for further consideration in view of any amendment by the General Synod;
- and the Regulations shall not come in to force until they have been sealed by the Archbishops' Council.
- (7) Where the Business Committee of the General Synod determines that draft Regulations do not need to be debated by the General Synod, then, unless—
- (a) notice is given by a member of the General Synod in accordance with its Standing Orders that he or she wishes the draft Regulations to be debated, or
  - (b) notice is so given by any such member that he or she wishes to move an amendment to the draft Regulations,
- the draft Regulations shall, for the purposes of subsections (5) and (6) above, be deemed to have been approved by the General Synod without amendment.
- (8) The Statutory Instruments Act 1946 (c. 36) shall apply to any Regulations sealed by the Archbishops' Council under subsection (6) above as if they were a statutory instrument and were made when sealed by the Archbishops' Council, and as if this Measure were an Act providing that any such Regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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#### **Textual Amendments**

- F1** S. 2(2A) inserted (retrospectively) by [Church of England \(Miscellaneous Provisions\) Measure 2018](#) (No. 7), **ss. 6(7)(12), 17(2)(b)**
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#### **Commencement Information**

- II** S. 2 in force at 11.6.2009 by [S.I. 2009/1](#), Instrument made by Archbishops

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### 3 Duration of appointments

- (1) Subject to subsection (2) below, an office holder other than an archbishop or a bishop may resign his or her office by giving written notice not less than three months before the resignation is to take place to the bishop of the diocese in which the post is held.
- (2) Any notice required to be given under subsection (1) above may be waived by agreement between the office holder and the diocesan bishop.
- (3) The term of office of a person who holds office under Common Tenure shall be terminated only—
  - (a) on the death of the office holder;
  - (b) on attaining the retirement age specified in relation to that office in section 1 of the Ecclesiastical Offices (Age Limit) Measure 1975 (1975 No. 2) or on the expiration for any period which the office holder is permitted to continue in office after the retirement age under section 2 or 3 of that Measure [<sup>F2</sup>or in provision made by regulations under section 2 of this Measure];
  - (c) where the office ceases to exist in consequence of a pastoral scheme or order made under the Pastoral Measure 1983 (1983 No. 1) or reorganisation scheme made under Part II of the Dioceses, Pastoral and Mission Measure 2007 (2007 No. 1);
  - (d) where the office holder is removed from office following a finding of guilt for an offence under Part VI of the Ecclesiastical Jurisdiction Measure 1963 (1963 No. 1) or under any provision of the Clergy Discipline Measure 2003 (2003 No. 3);
  - (e) where the term is fixed or is otherwise limited, on the expiry of the term or the occurrence of the event in question, as the case may be; or
  - (f) under subsection (4), (5) or (6) below or subsection (1) above.
- (4) The bishop of the diocese in which an office holder referred to in section 1(1)(g) or (h) of this Measure holds office may revoke the office holder's licence to exercise the office only in accordance with the capability procedures or in accordance with the Ecclesiastical Jurisdiction Measure 1963 (1963 No. 1) or the Clergy Discipline Measure 2003 (2003 No. 3) or, in the case of a priest-in-charge appointed to a benefice during a vacancy, when the vacancy comes to an end.
- (5) Where a licence has been granted by a diocesan bishop to a person to exercise an office which is held by the office holder in connection with employment under a contract of employment the bishop may revoke the licence if that contract is terminated and the term of office of the office holder shall, thereupon, be terminated.
- (6) Where there has been an adjudication on a matter relating to the performance of an office holder under the capability procedures and a determination that the office holder should be removed from office, then, if any appeal against the determination has been unsuccessful or the time within which an appeal may be brought has expired without such an appeal being brought, the bishop or, in the case of an office holder who is a diocesan bishop, the archbishop of the province concerned, or, in the case of an archbishop, the archbishop of the other province, shall serve notice in writing on the office holder terminating his or her appointment with effect from the date of

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the expiry of three months after the date of the notice and stating in the notice the reason or principal reason for the termination.

- (7) The Church Dignitaries (Retirement) Measure 1949 (12, 13 & 14 Geo. 6 No. 1) shall have effect only in relation to holders of offices who are not subject to Common Tenure and section 6, or so much of section 7, of the Bishops (Retirement) Measure 1986 (1986 No. 1) (“the 1986 Measure”) as relates thereto shall cease to have effect, but, where an appointment of an archbishop is terminated under subsection (6) above, the archbishop of the other province shall petition Her Majesty to declare the archbishopric vacant and Her Majesty may by Order in Council declare the archbishopric vacant as from a date specified in the Order.
- (8) Section 3, and so far as it relates thereto, section 7 of the 1986 Measure shall not have effect in relation to a bishop who is subject to Common Tenure, but, where the appointment of a bishop is terminated under subsection (6) above, the archbishop of the province in which the bishopric is situated shall, by written notice, declare the bishopric vacant as from a date specified in the notice.
- (9) Section 8 of the 1986 Measure shall apply where an office is declared vacant under subsection (7) or (8) above as it applies where an office is declared vacant under that Measure.
- (10) In the Schedule to the Ecclesiastical Offices (Age Limit) Measure 1975 (1975 No. 2) there shall be added at the end “ Any other holder of an ecclesiastical office who is subject to Common Tenure ”.

#### Textual Amendments

- F2** Words in s. 3(3)(b) inserted (retrospectively) by [Church of England \(Miscellaneous Provisions\) Measure 2018 \(No. 7\), ss. 68](#)(12), 17(2)(b)

#### Commencement Information

- I2** S. 3 in force at 31.1.2011 by [S.I. 2010/8, art. 2](#)

VALID FROM 31/01/2011

## 4 Provision of housing for office holders

- (1) Every office holder who holds a full-time office for which he or she is entitled to receive a stipend other than the incumbent of a benefice shall be entitled to be provided by the relevant housing provider with accommodation which is reasonably suitable for the purpose and accommodation provided under this section is referred to in this Measure as a “house of residence”.
- (2) The right conferred by subsection (1) above is subject to any provision removing or modifying that right which may be specified, with the agreement of the office holder, in the particulars of office served on him or her in accordance with Regulations.
- (3) Where the particulars of office served on an office holder who holds a part-time post specify the provision of accommodation for the office holder the office holder shall be treated, for the purposes of this section, as if he or she had an entitlement

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under subsection (1) to be provided with accommodation in accordance with those particulars of office.

- (4) Except as aforesaid, it shall be a condition of the provision of a house of residence to an office holder that the office holder occupies it for the better performance of the duties of the office and the terms on which the house of residence is occupied shall not create a relationship of landlord and tenant between the relevant housing provider and the office holder.
- (5) The right conferred by subsections (1) and (3) above shall cease on such date as may be specified in or under Regulations.
- (6) Subject to the preceding provisions of this section, the terms on which the office holder exercises the right conferred by subsections (1) and (3) shall be specified in Regulations.
- (7) In this Measure “relevant housing provider” means—
  - (a) in the case of an archbishop or a diocesan bishop, the Commissioners;
  - (b) in the case of a dean, residentiary canon or other person in holy orders holding a stipendiary office in a cathedral, the Chapter of the cathedral; and
  - (c) in the case of a suffragan bishop, archdeacon or other office holder, the Board.
- (8) A relevant housing provider may agree with another relevant housing provider (“the second provider”) that the second provider shall be responsible for providing accommodation in a particular case and, whilst any such agreement is in force, the second provider shall, in relation to any such accommodation, be deemed to be the relevant housing provider for the purposes of this Measure.

VALID FROM 31/01/2011

## **5 Provision of housing by Board and other relevant housing providers**

- (1) It shall be the duty of the Board to oversee the provision of housing for all office holders holding office in the diocese for whom it is the relevant housing provider and to ensure, whether directly or by means of an arrangement with another person, body or authority, that suitable housing is provided for each such office holder who is entitled under section 4 above to be provided with accommodation.
- (2) Subject to section 4(1) and (3) above, the Board and any other relevant housing provider may also provide such housing accommodation as it thinks fit for any office holder for whom it is the relevant housing provider.

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## **6 Powers to acquire and dispose of houses of residence and carrying out of works**

- (1) Subject to subsection (4) below, any relevant housing provider may acquire (including by way of gift), exchange or dispose of any land, or any interest in or over land, or any building which it considers necessary or appropriate for the provision of



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a house of residence for an office holder for which it is the relevant housing provider or is no longer required, as the case may be.

- (2) Any relevant housing provider may carry out such works of improvement, repair, demolition, reduction, enlargement or other alteration of or to any such house of residence as appears to it to be appropriate.
- (3) Before carrying out any works in accordance with subsection (2) above the relevant housing provider shall consult the office holder, unless the transaction is a regulated transaction to which section 7 below applies.
- (4) This section and section 7 below do not apply to a parsonage house vested in an incumbent of a benefice or to any land or buildings to which the powers conferred by section 1 or 2 of the Parsonages Measure 1938 (1 & 2 Geo. 6 No. 3) relate.

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## **7 Transactions by relevant housing providers relating to houses of residence**

- (1) Subject to section 6(4) above, in this Measure a “regulated transaction” means—
  - (a) any disposal of a house of residence or exchange of a house of residence for another house of residence;
  - (b) any works or other activity carried out to improve, demolish, reduce, enlarge or otherwise alter a house of residence or any part thereof; and
  - (c) in the case of a house of residence for an archbishop or a diocesan bishop, any acquisition (including any acquisition by gift) of a house or land intended for the provision of a new house of residence or of land for the provision of access to or for the improvement of the amenities of a house of residence or the erection of a new house of residence on land already owned by the relevant housing provider.
- (2) Before carrying out a regulated transaction a relevant housing provider shall serve notice, in accordance with Regulations, on—
  - (a) any office holder in occupation of a house of residence or, in the case of an acquisition of a house or land intended for the provision of a new house of residence, any office holder for whom the house of residence is to be provided and, in the case of a team ministry, on every person serving in the team ministry;
  - (b) the bishop of the diocese in which the house of residence or other land is situated unless the bishop is the office holder referred to in paragraph (a) above; and
  - (c) in the case of a house of residence for a diocesan bishop, the bishop's council and standing committee.
- (3) Any person or body on whom notice is served of a regulated transaction under subsection (2) above shall have the right to object to the transaction in accordance with Regulations.
- (4) Unless subsection (7) below applies, before carrying out a regulated transaction to which subsection (5) below applies a relevant housing provider must—
  - (a) if the relevant housing provider is not the Commissioners, obtain the consent of the Commissioners, or

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- (b) if the relevant housing provider is the Commissioners, obtain the consent of the Archbishops' Council.
- (5) This subsection applies to any disposal, purchase or exchange which—
- (a) is to or from a connected person or a trustee for or nominee of a connected person, or
- (b) is not made on terms which a qualified surveyor has recommended are the best that can reasonably be obtained for the relevant housing provider.
- (6) In this section—
- (a) “connected person” means—
- (i) any office holder in occupation of the house of residence or for whom the house of residence is to be provided,
- (ii) the relevant housing provider or any member, officer, agent or employee thereof; and
- (iii) a spouse, civil partner, child, parent, grandchild, grandparent, brother or sister of any person mentioned in sub-paragraph (i) or (ii) above; and
- (b) “qualified surveyor” means, in the case of a house of residence provided by the Board, the diocesan surveyor or, in the case of any other house of residence, a surveyor who is a member of the Royal Institution of Chartered Surveyors or, in the case of a surveyor appointed under a scheme made under the 1972 Measure before the coming into force of section 6 of the Church of England (Miscellaneous Provisions) Measure 2005 (2005 No. 3), a fit person appointed under the scheme.
- (7) Before exercising any power to acquire or dispose of a house of residence the Chapter of a cathedral shall obtain the consent of the Commissioners and, in the case of a house which is allocated for the use of the holder of a dignity the right of presentation to which is vested in Her Majesty, of Her Majesty.
- (8) The Commissioners may lend money to any other relevant housing provider on such terms as they think fit for the purposes of carrying out a regulated transaction.
- (9) Schedule 1 to this Measure shall have effect in relation to the application of any money received by the Board in connection with a sale or exchange of a house of residence owned by it and to other matters relating to regulated transactions.

## 8 Codes of Practice

- (1) It shall be the duty of the Archbishops' Council to formulate guidance for the purposes of this Measure and to promulgate such guidance in one or more Codes of Practice.
- (2) The Archbishops' Council may amend or replace any Code of Practice by a further Code of Practice issued under this section.
- (3) A Code of Practice shall be laid before the General Synod and shall not come into force until approved by the General Synod, whether with or without amendment.
- (4) Where the Business Committee of the General Synod determines that a Code of Practice does not need to be debated by the General Synod then, unless—
- (a) notice is given by a member of the General Synod in accordance with its Standing Orders that he or she wishes the Code to be debated, or



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- (b) notice is so given by any such member that he or she wishes to move an amendment to the Code,  
the Code shall, for the purposes of subsection (3) above, be deemed to have been approved by the General Synod without amendment.
- (5) Any person or body carrying out functions under this Measure or Regulations shall have regard to any Code of Practice issued under this section.

#### Commencement Information

**I3** S. 8 in force at 24.11.2009 by S.I. 2009/2, Instrument made by Archbishops

VALID FROM 31/01/2011

## 9 Supplementary provisions

- (1) Nothing in this Measure or in Regulations shall have effect so as to enable procedures to be applied in relation to any person to whom this Measure applies in respect of any misconduct within the meaning of section 38 of the Ecclesiastical Jurisdiction Measure 1963 or section 8 of the Clergy Discipline Measure 2003 otherwise than under the said Measure of 1963 or the said Measure of 2003, as the case may be.
- (2) Any ecclesiastical office which is a freehold office and vacant on the coming into force of this section and any such office held by any person to whom this Measure applies (whether or not the holder of the office holds any other office) shall cease to be a freehold office, in the case of a vacant office, on the coming into force of this section and, in any other case, on the date of the application of this Measure to the holder of the office.
- (3) Where immediately before the coming into force of this section, an office is an office the holder of which is a corporation sole, nothing in this Measure shall affect the status as a corporation sole of the holder of any such office, whether appointed before or after that date.
- (4) This Measure shall not apply to a holder of an office in a Royal Peculiar or to the dean and residentiary canons of the Cathedral Church of Christ in Oxford.
- (5) Nothing in this Measure or in Regulations shall prejudice any rights or obligations conferred or imposed on office holders or any other person or authority in any Measure, Canon of the Church of England or otherwise, except so far as this Measure or Regulations otherwise provides or provide.
- (6) Nothing in this Measure shall be taken as creating a relationship of employer and employee between an office holder and any other person or body.
- (7) Sections 6 and 7 above shall not apply to the archiepiscopal residence known as Lambeth Palace.
- (8) The powers conferred upon colleges and halls within the Universities of Oxford and Cambridge and other corporate bodies by section 5 of the Parsonages Act 1838 (1 & 2 Vict. c. 23) shall extend and be applicable so as to authorise loans in aid of any regulated transaction.

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(9) This Measure shall have effect notwithstanding any provision in the constitution or statutes of a cathedral.

## 10 Interpretation

In this Measure—

“the 1972 Measure” means the Repair of Benefice Buildings Measure 1972 (1972 No. 2);

“the Board” means the Parsonages Board appointed or designated under a scheme made under section 1(1) of the 1972 Measure;

“capability procedures” means any procedures for which Regulations make provision by virtue of section 2(2)(d) above;

“the Commissioners” means the Church Commissioners;

“house of residence” has the meaning assigned to it by section 4(1) above and includes any land or buildings occupied together with a house of residence;

“office holder” has the meaning assigned to it by section 2(1) above;

“Regulations” means Regulations made under section 2 above; and

“relevant housing provider” has the meaning assigned to it by section 4(7) above.

### Commencement Information

**I4** S. 10 in force at 11.6.2009 by S.I. 2009/1, Instrument made by Archbishops

## 11 Amendment of Enactments

(1) The Archbishops' Council may, by Order, make provision—

(a) for such amendments or repeals of any provision of a Measure or other enactment or instrument, or

(b) for transitional matters,

as appear to the Council to be necessary or expedient in consequence of any provision of this Measure or of Regulations.

(2) Section 2(5) to (8) above shall apply in relation to any Order made under this section as if any reference therein to draft Regulations or a draft of Regulations or to Regulations were a reference to a draft Order or a draft of an Order or to an Order, as the case may be.

(3) No draft order under section 2(5) above, as applied by subsection (2) above, shall be laid before the General Synod after the expiry of the period of five years beginning with the day on which this section comes into force.

(4) The enactments set out in Schedule 2 to this Measure shall have effect subject to the amendments specified in that Schedule.

(5) Section 3 of the Episcopal Endowments and Stipends Measure 1943 (6 & 7 Geo. 6 No. 2) shall not have effect in relation to a house of residence provided for a diocesan bishop who is subject to Common Tenure but section 4 of that Measure shall apply to the exercise of powers in relation to a house of residence provided under this Measure as it applies in relation to the exercise of powers under that Measure.

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- (6) The Incumbents (Vacation of Benefices) Measure 1977 (1977 No. 1) (in this subsection and subsection (7) below referred to as “the 1977 Measure”) shall have effect only in relation to benefices of which the incumbent is not subject to Common Tenure, but if—
- (a) the incumbent of a benefice makes a declaration under section 1(4) above agreeing to the application of this Measure to him or her, and
  - (b) at the time when the declaration is received by the bishop of the diocese a request for an enquiry has been made under section 1A or the bishop has instructed the secretary of the diocesan synod to institute an enquiry under section 6 of the 1977 Measure and proceedings under the Measure in respect of the enquiry have not been concluded,
- section 1(5) above shall not have effect and this Measure shall not apply to the incumbent until all such proceedings have been concluded and until (if the incumbent remains in office) the bishop has notified the incumbent in writing that this Measure applies to this incumbent from the date specified in the notice.
- (7) Where, on the coming into force of section 1 above, a vicar in a team ministry is the subject of a request for an enquiry or an enquiry under the provisions of the 1977 Measure referred to in subsection (6)(b) above in relation to which proceedings under that Measure have not been concluded, this Measure shall not apply to the vicar until all such proceedings have been concluded and the bishop has notified him or her in writing that this Measure applies to him or her from the date specified in the notice.
- (8) Section 15(1) of the Care of Cathedrals Measure 1999 (1999 No. 1) shall not have effect in relation to the disposal of a house of residence occupied by or allocated for the use of a holder of an office who is subject to Common Tenure.

#### Commencement Information

**I5** S. 11(1)-(3) in force at 27.9.2010 by S.I. 2010/5, art. 2

VALID FROM 31/01/2011

#### 12 Repeals

The enactments set out in Schedule 3 to this Measure are hereby repealed to the extent specified in the second column of that Schedule.

#### 13 Citation, commencement and extent

- (1) This Measure may be cited as the Ecclesiastical Offices (Terms of Service) Measure 2009.
- (2) This Measure shall come into force on such day as the Archbishops of Canterbury and York may jointly appoint and different days may be appointed for different provisions.
- (3) This Measure shall extend to the whole of the provinces of Canterbury and York except the Channel Islands and the Isle of Man, except that the provisions thereof may be extended to the Channel Islands as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957 or either of them, in accordance with those Measures, and, if

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an Act of Tynwald or an instrument made under an Act of Tynwald so provides, shall extend to the Isle of Man subject to such exceptions, adaptations or modifications as may be specified in the Act of Tynwald or instrument.

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**Commencement Information**

**I6** S. 13 in force at 11.6.2009 by S.I. 2009/1, Instrument made by Archbishops

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