

# RETURNS TO OVERTURES

May 2017

## PROPOSED DELIVERANCE

4

### The General Assembly:

1. Receive the Report.
2. Convert into a Standing Law of the Church the Registration of Ministries Overture, as printed in Appendix B.

## REPORT

### 1. Introduction

As will be seen from the returns detailed in Appendix A, the Registration of Ministries Overture sent to Presbyteries by last year's General Assembly received sufficient support to be presented for enactment.

### 2. Comments from Presbyteries on the Overture

2.1 Comments were received from twenty-five Presbyteries. The Committee consulted with the Legal Questions Committee in order to determine how best to address these.

2.2 Some Presbyteries were concerned that the Overture created a "hierarchy of service" and in particular, there were suggestions that the Overture has the effect of making serving chaplains "second class citizens". The Committee is quite clear that this is not the aim of the proposed registration process and nor should it be considered, in any way, to be the outcome. The Committee would wish to affirm all forms of service, both within and outwith parish ministry and indeed to affirm the parity, within the Kirk, of all Elders, Deacons and Ministers of Word and Sacrament. The proposed categorisation simply acknowledges that parish ministry isn't static and that developments naturally take place over

any period of time. The proposed register ensures that anyone returning to parish ministry, after an absence of three years or more, is reasonably up to date with any changes that have occurred since he or she last served in a parish appointment. The Overture seeks to support those who wish to make such a return, by ensuring that they are updated and equipped to serve in a parish role.

2.3 There was also a concern that that the Overture might be perceived as changing the concept of ordination being for life. The Overture actually seeks to affirm 'ordination for life' by ensuring that the Church maintains an up to date list of all those who have been ordained to the Diaconate or to the Ministry of Word and Sacrament. Regardless of whether or not such individuals hold relevant appointments, they remain authorised to perform the relevant functions of their ministry as duly authorised by the Church.

2.4 One Presbytery thought that the timescale in which a minister loses the ability to work in parish ministry was too brief (this being a reference to Category O registration lapsing after three years). However the Registration of Ministries Committee when considering applications is specifically directed to consider the applicant's recent experience of pastoral work and conducting worship and

will thus proceed accordingly. If for example, a person has until fairly recently been working in parish ministry, it would be expected that the Committee would direct that little if anything by way of further training or mentoring would be required in order for Category O registration to be granted.

**2.5** Some Presbyteries perceived a negation of the principles of Presbyterianism in the centralisation which is a consequence of the Overture. The Committee wishes to highlight that many aspects of the proposed categorisation process would remain at Presbytery level, much as they do under the current system of Practising Certificates. The centralised role of the Ministries Council, in maintaining the overall Register of Ministry, is purely administrative. The Registration of Ministries Committee is deliberately being proposed as a discrete body, appointed by the General Assembly, to consider certain specified applications for categorisation. The practical outworking of these particular categorisations is not limited by the boundaries of any particular Presbytery and so the Overture endeavours to ensure that a fair and consistent standard is applied across the whole Church.

**2.6** The term “occasional basis” in the explanation of Categories E and R was queried and this has been addressed in the amended Overture now presented for approval. Revisals have been made to sections 11, 12 and 13 (the table of categories of registration).

**2.7** Some Presbyteries expressed concern over the lack of a system of CPD for ministers. This Overture proposes a limited programme of 'updating' for those returning to 'Category O' appointments after a period of absence, but it doesn't purport to answer the question of a wider programme of CPD. Nevertheless, the Ministries Council has been developing programmes of 'Continuing Ministerial Development' (CMD) as previously instructed by the Assembly. The Committee believes that the proposed Register of Ministry could potentially be used to support a universal programme of CMD, if this is instructed by the Assembly at a future date.

**2.8** Some Presbyteries suggested that it should be possible for ministers coming from say chaplaincy to be inducted to a parish with a programme of perhaps mentoring to follow after induction. This is entirely possible within the terms of the Overture as it stands: see section 27(2).

**2.9** One Presbytery suggested that the Registration of Ministries Committee will be too small and that it should consist of perhaps seven people. This comment is taken on board and the size of the Committee will be kept under review. In particular, its expansion might be appropriate should the Registration of Ministries Committee in future take on the work of Admissions and Readmissions.

**2.10** Some questions were raised about what it means for an ordained person to serve as a member of a Church court. The Legal Questions Committee is seeking a remit to undertake a consultation exercise in relation to membership of Church courts, and this will involve a review of the Church Courts Act, looking in particular at questions of the duties and responsibilities of membership of a court. Section 6.5 of the Report of the Legal Questions Committee expands upon this.

**2.11** One Presbytery enquired whether there are any plans to deal with the registration of Readers in future. In early discussions there was consideration of whether Readers should be included, but it was felt that they were adequately provided for in the Readership Act. Also, there are not the same administrative issues needing to be addressed for Readers. It would be fairly straightforward to include Readers in future in a subsequent revision of the Act if the Assembly should deem that appropriate.

**2.12** Helpful comments were made about the Criteria for Assessment and how these can be expanded. This could be considered in future and indeed in terms of section 1c) the Registration of Ministries Committee has power to decide for itself that the Criteria should be expanded, provided such amendments are subsequently reported to the Assembly.

### 3. Other proposed revisions to the Overture

In light of comments from Presbyteries and also representations from other interested parties, the Committee has decided that the Overture as printed in Appendix B should be revised so as to tidy up or clarify certain matters. Where these are significant, comment is offered as follows:

**3.1** A new section 2 (*The Registration of Ministries Committee*) has been inserted to establish clearly the Registration of Ministries Committee.

**3.2** Text has been added to section 6 (under the heading *Initial creation of the Register*) to confirm that on 1 January 2018, all provisions of Acts of the General Assembly dealing with Practising Certificates (including Qualified Practising Certificates) shall cease to have effect.

**3.3** Following representations from some Presbyteries and also from the Ministries Council, it has been agreed to place Associate Ministers in Category O rather than in Category E. This recognises that Associate Ministers work closely with parish ministers and generally remain up to date with current parish practice. The amendments can be found in section 11.

**3.4** In consultation it was noted that Category I ministers who are generally inactive, may from time to time wish to perform the functions of ministry, for example to perform an occasional marriage or baptism. The same might apply to deacons. A procedure has been added to enable such ministers and deacons to apply to the Presbytery Clerk for permission. (By virtue of status as a minister or deacon of the Church of Scotland, such persons are entitled under civil law to conduct marriages). See new section 16 (*Occasional exercise of the functions of Ministry or functions of the Diaconate by persons having Category I registration*).

**3.5** Wording has been added to section 19 (*Specific provisions applying to Category O registration*) to confirm

the categories of registration available in certain circumstances.

**3.6** In section 29(4) (*Applications from individuals registered in Category L*), the wording has been amended to make clear the procedure to be followed when a minister has fulfilled all the terms and conditions of a Legally Binding Agreement, and wishes to return to active ministry.

**3.7** The detailed consequential amendments and repeals flowing from the Overture are now placed in Schedule 4 of the Act. In some cases these differ slightly from what was originally proposed. The consequential amendments to the Ministry Act (Act II 2000) are substantial so have been placed in Schedule 3 in track changed form, to make them as comprehensible as possible.

**3.8** In section 3 of Schedule 1, it is proposed that it would be better for the General Assembly, through the Nomination Committee, to appoint the Convener and Vice-Convener of the Registration of Ministries Committee, as is normal practice. The Overture has been amended accordingly. When the Nomination Committee met in January 2017, three names were selected for nomination by the General Assembly to the Registration of Ministries Committee.

**3.9** Finally, it should be noted that the section numbering in the Overture has been corrected or recalculated in some instances.

### 4. Adjustments to text

**4.1** These are set out and explained above. The Overture as printed in Appendix B is shown track-changed so as to highlight readily each textual amendment from the version of the Overture that was published in the Remits booklet.

*In the name and by the authority of the Committee*

JOHN P CHALMERS, *Convener*

## APPENDIX A

### RETURNS

No of Presbyteries		Members voting for	
Approving	Disapproving	Approving	Disapproving
32	13	1,400	630

## APPENDIX B

### REGISTRATION OF MINISTRIES OVERTURE

*The General Assembly adopt the Overture the tenor whereof follows, and transmit the same to Presbyteries for their consideration under the Barrier Act, directing that returns be sent to the Principal Clerk not later than 31 December 2016.*

The General Assembly, with consent of a majority of Presbyteries, hereby enact and ordain as follows:

#### Definitions

1.
  - a) “the Register” shall mean the Register of Ministry, created and maintained in terms of this Act.
  - b) “the Rules of Procedure” shall mean the Rules of Procedure applying to the Registration of Ministries Committee, as specified in Schedule 1 of this Act. The Legal Questions Committee shall have powers to ~~approve~~make subsequent amendments to the Rules of Procedure, ~~and subject to~~ such amendments ~~being~~shall be reported to the following General Assembly.
  - c) the “Criteria for Assessment” shall mean the criteria used by the Registration of Ministries Committee when assessing applications related to the Registration of Ministry, as specified in Schedule 2 of this Act. The Legal Questions Committee shall have powers to ~~approve~~make subsequent amendments to the Criteria for Assessment, ~~and subject to~~ such amendments ~~being~~shall be reported to the following General Assembly.
  - d) “the Registration of Ministries Committee” (“the Committee”) shall mean a Committee appointed by the General Assembly as a Standing Committee, in terms of the Standing Orders of the General Assembly, which Committee shall be constituted as specified in the Rules of Procedure and shall have the task of dealing with various applications related to the Registration of Ministry.
  - e) “Minister of Word and Sacrament” shall be understood to include the following sub-categories:

- (i) "Minister" shall mean an individual who has been ordained to ministry as defined in section 1(d) of the Selection and Training for Full-Time Ministry Act (Act X 2004).
- (ii) "Ordained Local Minister" shall mean an individual who has been ordained to ministry as defined in the Ordained Local Ministry Act (Act IX 2011).
- (iii) "Auxiliary Minister" shall mean an individual who has been ordained to ministry as defined in the Auxiliary Ministry Act (Act XIII 2003).

f) "Deacon" shall mean an individual who has been ordained to ministry as defined in the Deacons Act (Act VIII 2010).

### **The Registration of Ministries Committee**

2. There shall be a Registration of Ministries Committee and it shall operate according to the Rules of Procedure.

### **The Register of Ministry**

2-3. There shall be a Register of Ministry, which shall list all individuals who hold status as Ministers of Word and Sacrament, or as Deacons, within the Church of Scotland.

3-4. For each individual, the Register shall specify:

- (i) the name, address and contact details of the individual,
- (ii) the Presbytery having jurisdiction over the individual, according to the Church Courts Act (Act III 2000),
- (iii) the ministry to which the individual has been ordained,
- (iv) the Category of registration for that individual, by specifying for that individual the Category **O**, **E**, **R**, **I**, **L**, or **S**, with the meaning stated below, and
- (v) the date from which that Category of registration applies.

### **Initial creation of the Register**

4-5. The provisions contained in sections 56 and 67 shall apply to the initial creation of the Register, in the period following implementation of this Act.

5-6. Upon the implementation of this Act, each Presbytery shall proceed to compile its section of the Register in respect of individuals within its jurisdiction. Each Presbytery shall ensure that all Ministers of Word and Sacrament, and Deacons, within its jurisdiction shall be entered on the Register in a Category **O**, **E**, **R**, **I**, **L** or **S**, as appropriate to their type of ministry and circumstances, as specified below. Each Presbytery shall submit their section of the Register to the Ministries Council by 1 October 2017, with a view to the Ministries Council commencing operation and maintenance of the Register from 1 January 2018. On that date all provisions of Acts of the General Assembly dealing with Practising Certificates or Qualified Practising Certificates shall cease to have effect.

~~6-7.~~ The initial decision as to the Category in which each individual Minister of Word and Sacrament, or Deacon, should be entered shall lie with the relevant Presbytery. Any individual dissatisfied with that initial decision shall be entitled to query the Presbytery's decision with a view to having his or her categorisation amended to his or her satisfaction through discussion. In the event of any such individual remaining dissatisfied with the Category in which he or she has been entered, then he or she shall have the right of appeal to the Ministries Appeal Panel in terms of section ~~3433~~ of this Act.

### **Maintenance of the Register**

~~7-8.~~ Once the Register has been initially compiled, the Ministries Council shall maintain the Register, with the assistance of Presbyteries.

~~8-9.~~ Upon ordaining an individual, as a Minister of Word and Sacrament or as a Deacon, or upon admitting the holder of a Certificate of Eligibility awarded in accordance with the Admission and Readmission of Ministers Act (Act IX 2002) to membership of Presbytery, the Presbytery concerned shall send a relevant extract minute to the Ministries Council. On receipt of such an extract minute, the Ministries Council shall enter the individual on the Register of Ministry according to the Category specified by Presbytery, subject to the following provisos:

- (i) A Minister of Word and Sacrament shall ~~initially~~ initially upon ordination or admission be entered in Category **O**, but if he or she is not appointed to a post which requires Category **O** registration within three years thereafter, then his or her Category **O** registration shall lapse on the third anniversary of the date on which the relevant Exit Certificate, or Certificate of Eligibility, was first granted. Thereafter the said individual shall either be registered in Category **E** in accordance with section ~~2224~~, or else shall be entitled to choose between Category **R** or Category **I** registration and shall inform Presbytery of his or her choice.
- (ii) A Deacon shall initially be entered in Category **E** or in Category **R**.

Any individual dissatisfied with that initial decision shall be entitled to query the Presbytery's decision with a view to having his or her categorisation amended to his or her satisfaction through discussion. In the event of any such individual remaining dissatisfied with the Category in which he or she has been entered, then he or she shall have the right of appeal to the Ministries Appeal Panel in terms of section ~~3433~~ of this Act.

~~9-10.~~ Upon written request by an individual, the Ministries Council shall provide to that individual a certified extract of his or her entry on the Register.

**Categories of registration for different types of ministry**

~~40-11.~~ All Ministers, as defined in section 1(~~e~~)(i) above, shall be entered on the Register in one of the following categories, with the following meanings:

Category	Meaning	Examples
<b>O</b>	Authorised to hold a pastoral charge and to perform the functions of ministry generally. For the avoidance of doubt, an individual who holds Category <b>O</b> registration is authorised to perform the functions of ministry in Category <b>E</b> or Category <b>R</b> .	Parish ministers; Interim ministers, Transition ministers <u>and Associate Ministers</u> .
<b>E</b>	Authorised to perform the functions of ministry in connection with an employed ministry post, which is either defined within sections 11 – 13 of the Church Courts Act (Act III 2000), or has been agreed by the Presbytery of the bounds to be a post of equivalent nature in which the functions of ministry would be legitimately discharged. Also authorised to perform the functions of ministry <del>on an occasional basis</del> in other circumstances, but not to hold a pastoral charge.	Chaplains (including Regular Forces' Chaplains); Ministers with employment contracts, <del>including with the exception of those listed under Category <b>O</b> above</del> Associate ministers.
<b>R</b>	Retaining status as a minister and authorised to perform the functions of ministry <del>on an occasional basis</del> <u>outwith an appointment covered by Category <b>O</b> or Category <b>E</b></u> .	This may include retired ministers whose Category <b>O</b> registration has lapsed and those who have retired in accordance with the Long-Term Illness of Ministers Act (Act XV 2002).
<b>I</b>	Inactive – retaining status as a minister but no longer authorised to perform the functions of ministry, <u>save where authorised under section 16 of this Act</u> .	This may include an individual who declares to Presbytery that he/she no longer intends to perform the functions of ministry. It may also include a person so registered by Presbytery.
<b>L</b>	Authorised to perform the functions of ministry on a limited basis, as specified in a Legally Binding Agreement, in terms of section <del>27</del> <u>29</u> of this Act.	
<b>S</b>	Suspended judicially in terms of the Discipline of Ministry Act (Act III 2001). For the avoidance of doubt, this does not include an individual who has been administratively suspended under Act III 2001.	

44-12. All Ordained Local Ministers and Auxiliary Ministers, as defined in sections 1(~~de~~)(ii) and 1(~~de~~)(iii) above, shall be entered on the Register in one of the following categories, with the following meanings:

Category	Meaning	Examples
<b>O</b>	Authorised to hold a designated appointment as an OLM, or as an Auxiliary Minister and to perform the functions of ministry generally. For the avoidance of doubt, an individual who holds Category <b>O</b> registration is authorised to perform the functions of ministry in Category <b>R</b> .	For an OLM this would be an appointment made in accordance with section 12(1) of Act IX 2011, and for an Auxiliary Minister this would be an appointment made in accordance with section 2(a) of Act XIII 2003.
<b>R</b>	Retaining status as a minister and authorised to perform the functions of ministry <del>on an occasional basis</del> <u>outwith an appointment covered by Category <b>O</b>.</u>	
<b>I</b>	Inactive – retaining status as a minister but no longer authorised to perform the functions of ministry, <u>save where authorised under section 16 of this Act.</u>	This may include an individual who declares to Presbytery that he/she no longer intends to perform the functions of ministry. It may also include a person so registered by Presbytery.
<b>S</b>	Suspended judicially in terms of the Discipline of Ministry Act (Act III 2001). For the avoidance of doubt, this does not include an individual who has been administratively suspended under Act III 2001.	

42-13. All Deacons, as defined in section 1(~~ef~~) above, shall be entered on the Register in one of the following categories, with the following meanings:

Category	Meaning	Examples
<b>E</b>	Authorised to hold a recognised diaconal appointment or post and to perform the functions of the diaconate generally.	This will include any Deacon holding a recognised diaconal appointment in accordance with section 11 of Act VIII 2010.
<b>R</b>	Retaining status as a Deacon and authorised to perform the functions of the diaconate <del>on an occasional basis</del> <u>outwith an appointment covered by Category <b>E</b>.</u>	
<b>I</b>	Inactive – retaining status as a Deacon but no longer authorised to perform the functions of the diaconate <u>save where authorised under section 16 of this Act.</u>	This may include an individual who declares to Presbytery that he/she no longer intends to perform the

		functions of the diaconate. It may also include a person so registered by Presbytery.
<b>S</b>	Suspended judicially in terms of the Discipline of Ministry Act (Act III 2001). For the avoidance of doubt, this does not include an individual who has been administratively suspended under Act III 2001.	

**Functions of ministry**

~~43-14.~~ The functions of ministry referred to in sections ~~40~~11 and ~~41~~12 above shall be:

- (1) the conduct of public worship;
- (2) the administration of the sacraments; and
- (3) the solemnisation of marriage.

**Functions of the diaconate**

~~44-15.~~ The functions of the diaconate referred to in section ~~42~~13 above shall be:

- (1) the exercise of a ministry of an evangelistic, pastoral, educational or social nature, including the conduct of public worship as need arises; and
- (2) the solemnisation of marriage, subject to the permission and supervision of the minister or Interim Moderator of the parish in which the marriage takes place. For the purposes of the conduct of marriages, section 19 of the Ministry Act (Act II 2000) (as amended) shall apply to Deacons.

**Occasional exercise of the functions of Ministry or functions of the diaconate by persons having Category I registration**

~~16.~~ A person holding Category I registration may on a particular occasion undertake the functions of ministry or the functions of the Diaconate, as the case may be, subject to first having obtained the permission of the Presbytery Clerk.

**Locum Tenens**

~~15-17.~~ Any Minister of Word and Sacrament, or Deacon, with an **O, E or R** registration shall be entitled to work as a locum tenens, subject to the following proviso: an Ordained Local Minister or Auxiliary Minister may only work as a paid locum tenens where he or she is already working in a designated Ordained Local Ministry, or Auxiliary Ministry, appointment and has already fulfilled the requirements of that appointment.

### Forces' Chaplains

4618. The Ministries Council, in consultation with the Committee on Chaplains to Her Majesty's Forces, shall arrange appropriate input to the annual conference for Forces' Chaplains, with a view to keeping Regular Chaplains up to date with ongoing developments in ministry and in relevant aspects of practice and procedure, and thereby facilitating applications for Category **O** registration from any such Chaplains upon leaving the Forces.

### Specific provisions applying to Category **O** registration

4719. At the date on which an individual ceases to hold an appointment requiring Category **O** registration, thereafter he or she may choose to retain his or her Category **O** registration for a period of up to three years, subject to the following exceptions which shall result in immediate re-categorisation:

- (i) Where Categories **L** or **S** pertain.
- (ii) Where an individual is added to the supplementary lists **G**, or **D** as outlined in section 3234.
- (iii) Where an individual is leaving a post for reasons of ill health, in which case he or she shall be entitled to choose between Category **R** or Category **I** registration and shall inform Presbytery of his or her choice,
- (iv) Where an individual is demitting his or her first charge within the first five years of ministry and the Presbytery is not satisfied that there are exceptional circumstances which justify this in accordance with section 4(2) of the Vacancy Procedure Act (Act VIII 2003), in which case he or she shall be entitled to choose between Category **R** or Category **I** registration and shall inform Presbytery of his or her choice.

In the event of such an individual not taking up a relevant appointment within that three year period, then his or her Category **O** registration shall lapse. Thereafter he or she shall either be registered in Category **E** in accordance with section 2224, or else shall be entitled to choose between Category **R** or Category **I** registration and shall inform Presbytery of his or her choice.

If an individual chooses not to retain Category **O** registration, then he or she shall be entitled to choose between Category **R** or Category **I** registration and shall inform Presbytery of his or her choice.

4820. At the date on which an individual has been newly granted Category **O** registration by the Registration of Ministries Committee, thereafter he or she shall remain qualified to seek a relevant appointment for a period of three years. In the event of an individual not taking up such an appointment within that time, then his or her Category **O** registration shall lapse. Thereafter he or she shall either be registered in Category **E** in accordance with section 2224, or else shall be entitled to choose between Category **R** or Category **I** registration and shall inform Presbytery of ~~thei~~his or her choice.

### Annual Review of Categories of registration

4921. There shall be a process of annual review of the Categories of registration then appearing on the Register for each individual, to determine whether any changes are necessary or appropriate, which

process of annual review shall proceed as set out in this section ~~49~~21. The first process of review shall commence in March 2018.

- (1) Not later than 31 March each year, the Ministries Council shall send to each Presbytery Clerk an extract from the Register, listing all individuals within the jurisdiction of that Presbytery whose names appear on the Register and providing for each individual the existing registration information specified in section ~~35~~ of this Act.
- (2) Not later than 30 April each year, the Presbytery Clerk shall write to:
  - (i) Any individual who still holds Category **O** registration, but without holding a relevant post, informing him/her of the date on which his/her Category **O** registration shall lapse in terms of section ~~48~~20 above. If the relevant date is reached without the individual obtaining a Category **O** post, then the individual concerned shall then be entitled to choose between Category **R** or Category **I** registration and shall inform Presbytery of his or her choice.
  - (ii) Any individual who still holds Category **E** registration, but without holding a relevant post, informing him or her that his or her Category **E** registration has lapsed. The individual concerned shall then be entitled to choose between Category **R** or Category **I** registration and shall inform Presbytery of his or her choice.
  - (iii) Any individual holding Category **R** registration enquiring whether or not they wish such registration to be renewed and requesting details of ministerial functions exercised during the preceding year. Upon receipt of such information, Presbytery shall determine whether to allocate Category **R** or Category **I** to that individual.
  - (iv) Any individual holding Category **I** registration and whose circumstances are not known to the Presbytery, asking him or her to inform Presbytery if during the previous twelve months he or she has left the communicant membership of the Church of Scotland. On receiving such notice, then the name of that individual shall be removed from the Register.

In each such case the Presbytery Clerk shall specify to the individual concerned that any relevant information must be submitted to Presbytery by 31 May.

- (3) After 31 May each year, each Presbytery shall assign each and every individual on its section of the Register to a Category of registration for the following year commencing 1 July, based upon the information supplied in terms of sub-section (2) above. For the avoidance of doubt, where Presbytery requests information but that is not forthcoming, Presbytery shall be entitled to allocate a Category of registration as it sees fit. An individual shall generally remain in the same Category of registration unless there has been a change of circumstances which makes another Category more appropriate. Presbytery shall submit the said section of the Register to the Ministries Council by 30 June.

### Appeals arising from annual review process

~~20~~22. Any individual who is dissatisfied with his or her Category of registration as annually allocated by Presbytery may appeal to the Ministries Appeal Panel in terms of section ~~34~~33 of this Act.

### Intermediate re-categorisation by Presbyteries or by the Ministries Council

23. Each of the Presbytery and the Ministries Council shall have the right to re-categorise any individual's entry on the Register immediately upon becoming aware of a change in his or her circumstances. If such re-categorisation is made by Presbytery it shall immediately advise (i) the individual and (ii) the Ministries Council. If such re-categorisation is made by the Ministries Council it shall immediately advise (i) the individual and (ii) the Presbytery. For the avoidance of doubt, (i) a re-categorisation may include removal of the individual from the Register, in which case sections ~~32~~34 and ~~33~~35 below may apply, and (ii) any Minister of Word and Sacrament or Deacon may also have his or her registration adjusted or removed at any time as a consequence of judicial process.
24. If a Minister or Deacon currently holding Category **O**, **R** or **I** registration takes up an employed post as defined in section ~~40~~11 or section ~~42~~13 of this Act, that individual shall be re-categorised as Category **E** except in the following circumstances:
- (i) if he or she is choosing to retain Category **O** registration under section ~~47~~19 of this Act; and
  - (ii) if he or she left a post for reasons of ill-health, then an application for Category **E** registration must be made to the Registration of Ministries Committee under section ~~28~~30 of this Act before any re-categorisation can occur.
25. Any individual dissatisfied with their Category of registration as re-categorised by Presbytery or the Ministries Council may appeal to the Ministries Appeal Panel in terms of section ~~34~~33 of this Act.

### Moving Presbytery

26. If an individual wishes to move to the bounds of another Presbytery then he or she shall first obtain an certified extract of his or her entry on the Register in terms of section ~~9~~10 of this Act. Such extract shall be exhibited by the individual to the Clerk of the Presbytery to which he or she wishes to transfer. On accepting an individual under its jurisdiction, a Presbytery shall be entitled to re-categorise that individual's entry on the Register in terms of section ~~24~~23, subject always to the individual's right of appeal under section ~~23~~25.

### Applications for change of Category of registration

#### Application for Category **O** registration

- ~~25~~27. All applications for Category **O** registration, from individuals registered in categories **E**, **R**, or **I**, or from individuals whose existing Category **O** registration is due to expire, shall be dealt with in terms of this section ~~25~~27.

- (1) Applications shall be made to the Registration of Ministries Committee on a form specified by that Committee. In considering such applications, the Committee shall:
  - (i) invite the Presbytery to which the individual is accountable to comment on the application.
  - (ii) be entitled to obtain an Occupational Health Report in relation to the applicant. Furthermore the Committee shall be obliged to obtain such a report if the applicant left his or her previous appointment for reasons of ill health.
  - (iii) consider the personal circumstances of the applicant in accordance with paragraph 1 of the Criteria for Assessment which are outlined in Schedule 2 of this Act.
  - (iv) be entitled to ask the applicant to attend a meeting of the Committee for an interview.
- (2) In giving its decision on the application, the Committee may specify what, if any, programme of mentoring, familiarisation, further education, or training, the applicant should be required to undergo. In such cases the Committee shall further specify:
  - (i) which, if any, aspects of this specified programme must be completed prior to Category **O** registration being granted.
  - (ii) which, if any, aspects of this specified programme may be completed subsequent to Category **O** registration being granted.

In each such instance the Committee shall prescribe a timescale within which such aspects of the programme should be completed.

- (3) Having completed any aspects of the specified programme outlined in accordance with section ~~2527~~(2)(i), an individual may be granted Category **O** registration, subject to signing a binding agreement that he or she will make all reasonable efforts to complete any remaining aspects, outlined in accordance with section ~~2527~~(2)(ii), within the prescribed timescale. Subsequent failure to abide by such a binding agreement may be considered to constitute a disciplinary offence.
- (4) In order to grant Category **O** registration the Committee must be satisfied that the individual in question is fit to perform the duties of the relevant post. The Committee may refuse to grant Category **O** registration, subject to the grounds for such a decision being clearly stated.

#### **Applications from individuals registered in Category **S****

~~2628~~. Any applications for a change of registration from individuals registered in Category **S** shall be dealt with in terms of this section ~~2628~~.

- (1) Applications shall be made to the Registration of Ministries Committee on a form specified by that Committee. In considering such applications, the Committee shall:

- (i) invite the Presbytery to which the individual is currently accountable, and, if different, also the Presbytery to which the individual was accountable at the time when the relevant suspension was imposed, to comment on the application.
  - (ii) instruct the applicant to provide two character references from individuals within the membership of the Church, at least one of whom must be a serving Minister or Deacon.
  - (iii) consider the personal circumstances of the applicant in accordance with the relevant sections of paragraph 2 of the Criteria for Assessment which are outlined in Schedule 2 of this Act.
- (2) In giving its decision on the application, the Committee shall clearly state the grounds on which it has been taken.
  - (3) For the avoidance of doubt, where the Committee decides that a suspension is to be lifted and Category **O** registration is being sought, the application shall be considered in terms of section ~~25~~27 in addition to this section ~~26~~28 if the applicant has not served in a Category **O** appointment within the preceding three years.

#### **Applications from individuals registered in Category L**

- 29. Any applications for a change of registration from individuals registered in Category **L** shall be dealt with in terms of this section ~~27~~29.
  - (1) Where a Minister has agreed to demit his or her charge in the interests of peace of the Church and has entered into a legally binding written agreement with the Presbytery and the Ministries Council (a "Legally Binding Agreement") in terms of which he or she agrees to specified limitations upon his or her eligibility to perform the duties of a Minister for a specified period, the said minister shall be entered on the Register in Category **L**.
  - (2) A Minister who is entered on the Register in Category **L** may undertake only those functions of ministry which are defined in his or her Legally Binding Agreement.
  - (3) The Minister shall be entitled to a review (or reviews) of the terms and conditions of the Legally Binding Agreement after expiry of a period (or periods) specified within the Legally Binding Agreement. Such a review (or reviews) shall be conducted by the Ministries Council at the point(s) indicated in the Legally Binding Agreement.
  - (4) The Ministries Council shall inform the Minister concerned and also the Presbytery of the outcome of all such reviews. Subject to satisfactory fulfilment of all of the terms and conditions specified in the Legally Binding Agreement, the Ministries Council may resolve that the Minister shall be re-registered in Category **R**. Thereafter such Minister shall be eligible to apply for a further change of Category of Registration in accordance with the provisions of this Act. For the avoidance of doubt, no Minister ~~registered~~entered in Category **L** may apply for a change of Category of registration and an application for change of Category of registration shall be

possible only if the Ministries Council has first resolved that such Minister shall be re-registered in Category R without such a resolution having first been made by the Ministries Council.

- (5) A Minister shall have a right of appeal to the Ministries Appeal Panel in terms of section 33 of this Act in respect of any recommendation/resolution from the Ministries Council with which he or she is aggrieved in terms of section 31 of this Act.

#### **Applications for change of Category of registration from persons who left a post for reasons of ill health**

30. Any individual who left a post for reasons of ill health must, if wishing to obtain a Category **O** or **E** registration, apply to the Registration of Ministries Committee on a form specified by that Committee, which Committee must obtain an Occupational Health Report on the individual and in order to grant such registration, must be satisfied that the individual in question is fit to perform the duties of a parish minister, or of the relevant employment, as the case may be. All other relevant provisions of this Act, as contained in sections 2527 and 2931 of this Act, shall also apply.

#### **Other applications for change of Category of registration**

31. All applications for a change of Category of registration other than those specified in sections 2527 to 2830 above shall be made to the Presbytery having jurisdiction over that individual. Applications shall be made to the Presbytery on a form specified by the Ministries Council for all Presbyteries. In considering such applications, the Presbytery shall:
- (i) consider the personal circumstances of the applicant, and
  - (ii) be entitled to ask the individual in question to attend a meeting of representatives of the Presbytery for an interview.

Any individual who is dissatisfied with a decision of Presbytery in terms of this section 2831 shall have the right of appeal to the Ministries Appeal Panel in terms of section 3433 of this Act.

#### **Appeals from sections 2527 to 2931**

32. Any individual who is dissatisfied with a decision of the Registration of Ministries Committee in terms of sections 2527 to 2830 of this Act, or with a decision of Presbytery in terms of section 2931 of this Act shall have the right of appeal to the Ministries Appeal Panel in terms of section 3433 of this Act.

#### **Appeals to Ministries Appeal Panel**

33. An appeal to the Ministries Appeal Panel shall be heard in terms of the Ministries Appeal Panel Act (Act VI 2007). Such appeal shall be intimated to the Principal Clerk within fourteen days of the relevant decision of the Committee. An appeal may only be brought on one or more of the following grounds: (a) error in Church law; (b) that in the course of the registration procedure, or in the case of the Ministries Council, in the course of making a resolution, there was a breach of the principles of natural justice or

there were irregularities in the process; or (c) that the final decision was influenced by incorrect material fact. The decision reached by the Ministries Appeal Panel in relation to such an appeal shall be final.

### **Supplementary Lists**

34. The Ministries Council shall compile and maintain two supplementary lists, **G** and **D**, as specified below, which shall be considered to stand apart from the Register of Ministry.
- (1) List **G** shall contain the names of individuals who were previously Ministers of Word and Sacrament or Deacons of the Church of Scotland but who voluntarily demitted their status.
  - (2) List **D** shall contain the names of individuals who were previously Ministers of Word and Sacrament or Deacons of the Church of Scotland but who were judicially deprived of status.
35. Any individual recorded on lists **G**, or **D**, who wishes to resume practice as a Minister of Word and Sacrament or as a Deacon, of the Church of Scotland, must make application in accordance with the Admission and Re-admission of Ministers Act (Act IX 2002).

### **Amendments and Repeals**

36. With effect from 1 January 2018, the Ministry Act (Act II 2000) shall be amended as shown in Schedule 3, and other Acts of the General Assembly shall be amended or repealed as specified in Schedule 4. ~~Amendments to existing legislation as follows: *This table of proposed changes to other legislation has been inserted to give a general guide at this stage. A more sophisticated set of amendments will be drafted for the final Act*~~

*Note: The table of proposed changes to other legislation has been removed and consequential amendments can now be found in Schedules 3 and 4.*

**SCHEDULE 1: Rules of Procedure of the Registration of Ministries Committee**

1. The Registration of Ministries Committee (“the Committee”) shall be appointed by the General Assembly as a Standing Committee, in terms of the Standing Orders of the General Assembly.
2. The purpose of the Committee shall be to deal with various applications related to the Register of Ministry.
3.
  - (1) The Committee shall be a committee of five persons, consisting of a Convener, Vice-Convener and three other members. One member shall be appointed by the Legal Questions Committee, one by the Ministries Council and the other three members shall be appointed by the General Assembly on the nomination of the Nomination Committee. ~~At least one member shall be legally qualified, at least one shall be a Minister of Word and Sacrament and at least one shall be an elder.~~
  - (2) The General Assembly shall appoint a Convener and Vice-Convener, both of whom shall be proposed by the Nomination Committee and selected from its own three nominees. The three nominees proposed by the Nomination Committee shall include one member who is legally qualified, at least one Minister of Word and Sacrament and at least one elder. Committee shall itself choose a Convener and a Vice-Convener from among its number.
  - (3) The quorum of the Committee shall be three including either the Convener or Vice-Convener, ~~and including at least one elder and at least one minister (each of whom may be the Convener or Vice-Convener).~~
  - (4) A member of the Committee shall not sit to hear an application from a person from their own Presbytery. If necessary, a substitute member may be co-opted to the Committee by appointment from the Legal Questions Committee or the Ministries Council.
  - (5) The following persons shall also attend the Committee *ex officio*s in an advisory capacity (i) one or other of the Clerks of the General Assembly and (ii) the Secretary to the Ministries Council. These persons shall not be members of the Committee.
  - (6) Where the Act specifies that a Presbytery may comment on a particular application, a representative of that Presbytery shall be entitled to attend the relevant Hearing. The Clerk of the Committee shall provide any such Presbytery with at least fourteen days’ notice of such a hearing taking place. For the avoidance of doubt, a representative of Presbytery shall be entitled to comment on the application, but shall not vote when a decision is made. In the event of a Presbytery representative failing to attend, the Committee shall be entitled to proceed with the Hearing.

4. The Committee shall be clerked by the appropriate official within the Ministries Council. The Clerk shall not be a member of the Committee. If the Clerk is not present at a Hearing, the Committee shall appoint a substitute, whether or not a member thereof, to act as Clerk of the Committee during that Hearing.
5. The Committee shall hold Hearings as required to deal with its business. Hearings shall be called by the Clerk thereof. A Hearing may last for as long as business requires, and may deal with various applications.
6. The procedure of the Committee at its Hearings shall be in accordance with the Standing Orders of the General Assembly so far as applicable and consistent with this Act. The Committee shall act in accordance with the Constitution of the Church and the Acts of the General Assembly and nothing in this Act shall be construed as conferring power to contravene or amend existing legislation, or to legislate. The Committee shall be accountable to the Ministries Appeal Panel for its decisions.

### **SCHEDULE 2: Criteria for Assessment by the Registration of Ministries Committee**

The Committee shall apply the following criteria when assessing applications made in accordance with this Act.

1. Any application which is made in accordance with section ~~25~~27 of the Act shall be assessed against the following criteria:
  - (1) The extent to which the applicant has recent experience of leading worship within, or beyond, the Church of Scotland.
  - (2) The extent to which the applicant has recent experience of undertaking pastoral work within, or beyond, the Church of Scotland.
  - (3) Whether the applicant has recent experience of the dynamics involved when working with volunteers.
  - (4) The extent to which the applicant has recently participated in the courts, of the Church, and/or their Councils or Committees, in ways which have kept him or her familiar with current practice.
  - (5) The applicant's current knowledge of Church Law, particularly any areas of Church Law where changes have occurred since he or she was last engaged in the relevant field of ministry, and those areas of Church Law which govern current practice in ministry and mission.
  - (6) The applicant's knowledge of matters of civil law, as it currently affects congregations, and Ministers of Word and Sacrament working within them.
  - (7) If relevant, the circumstances which led to the applicant demitting his/her first charge within the first five years of ministry.
  - (8) Any other matter which the Committee reasonably considers pertinent in relation to the application in question.

2. Any application which is made in accordance with section ~~2628~~ of the Act, shall be assessed against the following criteria:
- (1) Where the relevant suspension was imposed for a fixed period, in accordance with section 1(1)(j)(ii) of the Discipline of Ministry Act (Act III 2001), the Committee shall consider:
    - (i) Whether or not the fixed period of the suspension has been served.
    - (ii) Whether or not the information provided in accordance with section ~~2628~~(1)(i) and section ~~2628~~(1)(ii) provides satisfactory assurance in relation to the current good conduct of the applicant.
    - (iii) Any other matter which the Committee reasonably considers pertinent in relation to the application in question.
  - (2) Where the relevant suspension was imposed without limit of time but subject to a minimum period of suspension, in accordance with section 1(1)(j)(iii) of the Discipline of Ministry Act (Act III 2001), the Committee shall consider:
    - (i) The circumstances which led to the applicant being suspended and the determination of the Presbyterial Commission at the time when the relevant suspension was imposed, including without limitation, all paperwork submitted to the court in connection with that decision. The Committee shall further consider, if appropriate, the determination of the Judicial Commission which heard any associated appeal, including without limitation, all paperwork submitted to the court in connection with that decision.
    - (ii) Whether or not the information provided in accordance with section ~~2628~~(1)(i) and section ~~2628~~(1)(ii) provides satisfactory assurance in relation to the current good conduct of the applicant.
    - (iii) Whether or not the specified minimum period of suspension has been completed.
    - (iv) Whether or not the period of suspension which has been served is considered to be adequate.
    - (v) Any other matter which the Committee reasonably considers pertinent in relation to the application in question.

SCHEDULE 3 – Amended Act II 2000**II. MINISTRY ACT (AS AMENDED BY ACTS VIII 2000, XIII 2002, III, VI AND VIII 2003, II, X AND XIII 2004, I AND IV 2006, IV 2008, II 2011, XV 2012, VII 2013 AND VIII 2014)***Edinburgh, 20th May 2000, Session 1*

(incorporating Acts XVII 1931, XVII 1932, VIII 1933, II 1986 (as amended by Acts II 1995 and III 1997), IV 1995 (as amended by Act V 1999), II 1987, II 1999 (Secular Employment))

The General Assembly declare and enact as follows:–

**Ordination**

1. Authority to ordain ~~ministers~~ Ministers of Word and Sacrament, in accordance with Acts and Regulations of the General Assembly, is vested in Presbyteries, and ordination is normally conferred on (i) a licentiate whose probationary period has been sustained or who has been granted exemption from a probationary period, all subject to the provisions of Act IX 2002 as amended, or (ii) a ~~g~~Graduate e~~Candidate~~ in terms of ~~either of Act X 2004 or of Act IV 2011.~~
  - (1) in connection with induction by the Presbytery to a pastoral charge,
  - (2) on appointment as associate minister in a charge,
  - (3) on appointment as assistant minister in a charge,
  - (4) on appointment as an Ordained Local Minister to a designated appointment,
  - (5) in relation to a position or office held to be the equivalent of a pastoral charge, the duties of which, in the judgement of the Presbytery, may be undertaken more effectively by an ordained ~~person~~minister,
  - (6) on appointment as a Chaplain to H.M. Forces,
  - (7) in terms of Act VII 2010 (Professors and Lecturers),
  - (8) in connection with appointment to a pastoral charge or chaplaincy or other overseas appointment made by, or with the approval of, the World Mission Council, ordination in such a case being by a Presbytery in Scotland where there is no local Presbytery having jurisdiction, provided that the Presbytery is satisfied as to the arrangements made, or
  - (9) when the crave of a Petition for ordination has been granted by the General Assembly, provided that in cases under sub-sections (3) to (8) above, the serving of an edict may be dispensed with, but in cases under sub-sections (3) to (7) above, public notice shall be given of the intention of the Presbytery to ordain unless there be substantiated objection to life or doctrine.
2. For the purposes of this Act, (1) the term "Minister of Word and Sacrament" shall apply to those ordained ministers in terms of Section 1 above, together with ministers those ordained in other churches who have been admitted to the Church of Scotland as ministers Ministers of Word and Sacrament by the General Assembly, or who have been inducted or introduced to charges or appointed to positions or offices in the Church of Scotland in accordance with mutual eligibility agreements, or in virtue of Certificates of Eligibility obtained from the Ministries Council or its Executive, and (2) the term "Parish Minister" shall apply to a Minister of Word and Sacrament inducted or introduced by a Presbytery to a pastoral charge in accordance with section 1(1) of this Act.

### Functions of the Ministry

3. Ministers of Word and Sacrament as defined in Sections 1 and 2 above shall be entitled to exercise the functions of the ministry (as defined in the Registration of Ministries Act (Act ZZ 2017)) and to use the designation "minister of the Church of Scotland" with a view to exercising such function only if, ~~in each case, the minister concerned:~~
- (1) the individual concerned is a member of a Presbytery; or
  - (2) holds a current Practising Certificate issued by a Presbytery as hereinafter provided or a Qualified Practising Certificate in terms of section 5(2) of this Act or she is permitted to do so according to the individual's listing and categorisation on the Register of Ministry (as defined in the Registration of Ministries Act (Act ZZ 2017)).
4. sec 4 repealed by Act ZZ 2017. The functions of the ministry are defined in the Registration of Ministries Act (Act ZZ 2017) referred to in Section 3 above shall be:
- ~~(1) the conduct of public worship;~~
  - ~~(2) the administration of the sacraments; and~~
  - ~~(3) the solemnisation of marriage.~~

### Practising Certificates

5. secs 5 to 17 repealed by Act ZZ 2017. Practising Certificates are superseded by the provisions of the Registration of Ministries Act (Act ZZ 2017) as to being registered on the Register of Ministry. 5. (1)
- ~~A Practising Certificate shall certify in the name of the Presbytery that the minister named therein is a minister of the Church of Scotland in good standing and is authorised to exercise the functions of the ministry generally, and in particular:~~
- ~~(a) on an occasional basis,~~
  - ~~(b) in employment as *locum tenens*, or~~
  - ~~(c) in connection with an assistantship or other position or office under the jurisdiction of the Presbytery, or appointment to which has been approved by the Presbytery, all subject to the supervision of the Presbytery.~~
- ~~(2) The holder of an unrestricted Practising Certificate shall be entitled to a seat in the Presbytery issuing the Certificate, and the applicant alone shall decide whether to take up such entitlement. For the avoidance of doubt, a Presbytery may not issue a qualified Practising Certificate excluding the award of a seat in Presbytery except (i) at the request of the Minister, or (ii) in terms of section 18 of this Act. The only other type of qualified Practising Certificate which a Presbytery may issue is a Qualified Practising Certificate (Ill Health) in terms of section 12 of Act XV 2002 (Act Anent Long Term Illness of Ministers in Charge) as amended and in that case the minister holding such a Certificate shall, for the avoidance of doubt, be entitled to a seat in Presbytery.~~

### Issuing of Certificates

- ~~6. The Presbytery shall review the list of current Practising Certificates granted by it as at 30th June each year. Not later than 30th April the Presbytery Clerk shall write to all holders of such certificates (a) enquiring whether or not they wish the Certificate to be renewed, (b) requesting details of ministerial functions exercised during the preceding year, and (c) requiring such information to be sent by 31st May. Such requests for renewal, or any failure to respond, shall be dealt with as in section 9.~~

7. ~~A Practising Certificate shall be issued by the Presbytery which ordains a minister who does not become a member of the Presbytery.~~
8. ~~Subject to the provisions of this Act and that of Act XV 2002 (Act Anent Long-Term Illness of Ministers in Charge) as amended, as to Qualified Practising Certificates, when by demission or resignation or in any other way a minister ceases to be a member of Presbytery, such minister may apply within two months to the said Presbytery for a Practising Certificate.~~
9. (1) ~~In the event of an application for a Practising Certificate being received in these or any other circumstances, it shall be considered in the first instance by the Presbytery's Superintendence Committee, or other Committee designated by the Presbytery for this purpose, which shall report to the Presbytery with a recommendation. Where the applicant intends to occupy a seat in Presbytery, the Committee shall satisfy itself whether he or she will fulfil the responsibilities of membership of Presbytery and accept such appointments as are allocated by the court. That consideration shall form part of the Committee's recommendation to the Presbytery, which shall decide the matter and minute its decision thereon.~~
- (2) ~~In the event of no application being received from a minister who is entitled to apply for the issue or renewal of a Practising Certificate, the circumstances shall be considered by the Superintendence Committee, or other Committee as above, and a Report made to the Presbytery as to whether a Practising Certificate should be issued or withheld.~~
- (3) ~~In the event of a Report being made to the Presbytery in terms of sub-sections (1) or (2) above, the minister concerned shall be informed of the contents of such Report, and shall be notified of the meeting at which the Report will be considered, and shall be entitled to appear and to be heard thereon.~~
- (4) ~~The Presbytery may resolve to issue a certificate, or to withhold a certificate, or to take some other action in the matter before making a final decision, provided that, in the event of a resolution to withhold a certificate, cause must be shown and recorded in the Minutes.~~
10. ~~It shall be the duty of a minister who holds a Practising Certificate and who moves to the bounds of another Presbytery to exhibit the said Certificate to the Clerk of that Presbytery which Presbytery shall become responsible for the issuing of Practising Certificates in terms of sections 7 to 9 above. It shall be the duty of a minister who holds a Qualified Practising Certificate of whatever type and who moves to the bounds of another Presbytery to exhibit said Certificate to the Clerk of that Presbytery.~~
11. ~~A minister whose Practising Certificate has lapsed may, at any time, make application for the issuing of a Practising Certificate to the Presbytery within whose bounds he or she resides, which shall be considered in terms of section 9 above. A minister living outwith the bounds of Presbytery shall make such application to the Presbytery which first issued the Certificate.~~

#### **Ineligibility**

12. ~~A minister from whom the Practising Certificate is withheld may not be associated in the practical work of a Kirk Session.~~

#### **Withdrawal**

13. ~~At any time during the validity of a Certificate the Presbytery, on cause shown and after giving the minister an opportunity to appear, may withdraw the Certificate, and any question of subsequent restoration shall be dealt with in accordance with the procedure set out in section 11 above.~~

#### **Notification**

14. ~~Ministers who are not members of Presbytery and who for any reason do not hold Practising Certificates~~

are nevertheless subject to the jurisdiction of the Presbytery of the bounds in each case, and are under obligation to notify the Presbytery Clerk of any change of address.

#### List of Ministers with Certificate

15. — Each Presbytery shall keep a list of ministers who have been granted a Practising Certificate or who have exhibited such Certificate to it. — A copy of this list shall be sent to the Principal Clerk of the General Assembly on 30th June each year, or as soon as possible thereafter, and any changes in the course of the year shall be intimated as they occur.

#### Status of Minister

16. — The Ministries Council shall maintain a register of ministers who, not being members of any Presbytery, have not demitted status nor been judicially deprived thereof. — Such registration indicates the eligibility of a minister to apply to his or her Presbytery for the issue of a Practising Certificate in terms of this Act, but does not constitute any recommendation regarding life, doctrine or suitability to practise as a minister.

17. — After 30th June each year, the Ministries Council shall write to those ministers whose names appear in the register but who do not hold a current Practising Certificate or current Qualified Practising Certificate, inviting them to confirm that in the previous twelve months

- (i) — they have neither demitted nor been judicially deprived of status, and
- (ii) — they have not left the communicant membership of the Church of Scotland.

Upon receiving such assurance, the Council will acknowledge to the minister in writing his or her continuing registration, which written acknowledgment may be regarded by the minister as a Certificate of Status as a minister of the Church of Scotland but not as a Practising Certificate. — Failure by a minister to respond in terms of this section will result in the loss of status as a minister, except in circumstances deemed exceptional by the Ministries Council.

#### Qualified Practising Certificates

18. *sec 18 repealed by Act ZZ 2017. Qualified Practising Certificates are superseded by the provisions of the Registration of Ministries Act (Act ZZ 2017) as to being registered on the Register of Ministry.*<sup>48</sup>. — (1)

— In addition to an unrestricted Practising Certificate in terms of sections 5 to 17 of this Act, a Presbytery may issue a Qualified Practising Certificate, being one of (i) at the request of the minister, as referred to in section 5(2) of this Act, (ii) a Qualified Practising Certificate (Demission with Legally Binding Agreement) in terms of this section 18 of this Act or (iii) a Qualified Practising Certificate (Ill Health) in terms of section 12 of Act XV 2002 (Act Anent Long-Term Illness of Ministers in Charge).

- (2) — Where a minister has agreed to demit in the interests of peace of the Church and has entered into a legally binding written agreement with the Presbytery and the Ministries Council (a “Legally Binding Agreement”) in terms of which he or she agrees to specified limitations upon his or her eligibility to perform the duties of a minister for a specified period, the Presbytery shall issue to that minister a Qualified Practising Certificate (Demission with Legally Binding Agreement) under this Act.

- (3) — If a minister holds a Qualified Practising Certificate (Demission with Legally Binding Agreement) then the following shall apply to that minister:

- (i) — The minister may undertake only those functions of the ministry which are defined in his or her Legally Binding Agreement.
- (ii) — The minister will retain the status of minister of the Church of Scotland but shall not be entitled to a seat in Presbytery or to apply for vacant charges.

- ~~(iii) The minister shall be entitled to a review (or reviews) of the terms and conditions of the Legally Binding Agreement after expiry of a period (or periods) specified within the Legally Binding Agreement.~~
- ~~(4) The Ministries Council will ensure that an appropriate review (or reviews) is/are conducted at the point(s) indicated in the Legally Binding Agreement and upon satisfactory fulfilment of the terms and conditions specified in the Legally Binding Agreement, the minister shall be eligible to apply for an unrestricted Practising Certificate. The Ministries Council shall inform the Presbytery of the outcome of all reviews and shall make recommendation(s) to Presbytery as to the issue of an unrestricted Practising Certificate. No Presbytery shall issue an unrestricted Practising Certificate to a minister who has previously been issued with a Qualified Practising Certificate (Demission with Legally Binding Agreement) without first receiving a recommendation from the Ministries Council in favour of issue of an unrestricted Practising Certificate. The minister shall have a right of appeal to the Ministries Appeal Panel in respect of any recommendation from the Ministries Council with which he or she is aggrieved.~~
- ~~(5) Each Presbytery shall maintain a list of Ministers holding a Qualified Practising Certificate (Demission with Legally Binding Agreement) and shall send that list to the Principal Clerk of the General Assembly on 30 June each year, or as soon as possible thereafter. Any changes in the course of the year shall be intimated as they occur.~~
- ~~(6) The procedure for the annual review of Practising Certificates, as outlined in sections 6 and 9 of this Act, shall not apply to Qualified Practising Certificates (Demission with Legally Binding Agreement) on the basis that while holding such a Certificate, the minister in question shall have his or her status reviewed as provided for in the Legally Binding Agreement and shall only be eligible to apply for an unrestricted Practising Certificate in terms of section 18(4) above. The provisions of sections 10, 12 and 13 of this Act shall apply to Qualified Practising Certificates (Demission with Legally Binding Agreement). Otherwise the provisions of this Act as to Practising Certificates shall not apply to Qualified Practising Certificates (Demission with Legally Binding Agreement).~~

**Entry of a Minister into another Parish** **Entry of a Minister of Word and Sacrament into the bounds of the charge of an existing Parish Minister**

19. A Parish Minister's field of ministerial work and responsibility lies generally within and does not extend beyond his or her own charge. A Minister of Word and Sacrament shall not be entitled to enter the bounds of the charge of an existing Parish Minister to perform ministerial functions without the previous consent of the Parish Minister in question, save in the following circumstances:
- (1) where he or she is acting under special commission or order of the Presbytery of the bounds, or of the General Assembly; or
  - (2) where the Parish Minister enters the bounds of the charge of another Parish Minister for the purpose of ministering to members and adherents of his or her own congregation, or
  - (3) where a Minister of Word and Sacrament holds a post which is listed in sections 11, 12 or 13 of Act III 2000 and enters the bounds of the charge of a Parish Minister to discharge duties which are directly connected with that post, or
  - (4) where a Minister of Word and Sacrament enters the bounds of the charge of an existing Parish Minister to officiate at a marriage or funeral by private invitation.

This Act shall not prohibit a Minister of Word and Sacrament from accepting an invitation to conduct divine service in a church of another denomination.

19. ~~A parish minister's field of ministerial work and responsibility lies within and does not extend beyond his or her own charge. Any such minister shall not be at liberty to overstep the bounds of that charge and enter that of another to perform ministerial functions without the previous consent of its parish minister, unless he or she is acting under special commission or order of the Presbytery of the bounds, or of the General Assembly; provided always that a parish minister may enter the bounds of a parish of another minister for the purpose of ministering to members and adherents of his or her own congregation, or to officiate at a marriage or funeral by private invitation.~~

~~This Act shall not prohibit a parish minister from accepting an invitation to conduct divine service in a church of another denomination.~~

*[For the purposes of the conduct of marriages, and on a date to be determined by the Principal Clerk, this section shall apply to deacons, see Act II-2004 Act VIII 2010, section 12.]*

**Functions of Parish Minister**

20. (1) The ministry of the Word, the conduct of public worship, the dispensing of the Sacraments, and the instruction of the young belong to the ~~pParish mMinister~~, subject to the control and direction of the Presbytery.
- (2) For the purposes of this Act an Interim Moderator, if ~~an ordained minister~~ a Minister of Word and Sacrament, shall have the privileges and duties of a ~~pParish mMinister~~, consistent with ~~Ssection 7~~ of Act VIII 2003.

**Conduct of Public Worship**

21. Responsibility for the conduct of public worship includes responsibility to ensure that public worship is conducted in an orderly and reverent manner by the ~~pParish mMinister~~, or in accordance with section 22, or by other persons under the supervision of a Minister of Word and Sacrament, being present in person.
22. For the conduct of public worship in the absence of the ~~pParish mMinister~~, and subject to section 24, only the following may be employed:
- (1) ~~ministers, auxiliary ministers and Ordained Local Ministers~~ Ministers of Word and Sacrament;
- (2) Ministers of Word and Sacrament of other Churches
- (a) with whose Churches there is a mutual eligibility agreement,
- (b) with whose Churches a common recognition of ministries has been approved by the General Assembly,
- (c) who would be admitted as Ministers of Word and Sacrament if admitted by the General Assembly,
- (d) who would be entitled to a Certificate of Eligibility, or
- (e) in respect of whom the Presbytery of the bounds is otherwise satisfied that their orders are in accordance with the standards of the Church of Scotland;
- (3) probationers;
- (4) licentiates and Graduate Candidates;

- (5) candidates for the ministry, including the ~~auxiliary ministry~~ ordained local ministry, who have been duly recognised as such;
  - (6) members of the diaconate;
  - (7) approved students for the diaconate;
  - (8) parish assistants employed by the Ministries Council;
  - (9) readers; and
  - (10) persons selected and trained to a standard determined by the Presbytery of the bounds in accordance with a scheme or arrangement approved by the Presbytery.
23. (i) Employment in terms of section 22 above shall not necessarily entitle any person to receive a pulpit supply fee, such fees being payable only in accordance with regulations approved by the General Assembly.
- (ii) No person authorised to conduct worship in terms of subsection 22(10) shall be entitled to a fee, but shall receive reasonable expenses as determined from time to time by the Presbytery.
24. Notwithstanding section 22 above a ~~p~~Parish ~~m~~Minister may occasionally and for special reason invite a person not qualified in terms of the said section to conduct public worship provided that, when an invitation in terms of this section has been accepted the Parish M~~m~~inister shall intimate the same in writing to the Clerk of the Presbytery within fourteen days.
25. Section 24 above may be construed to include, *inter alia*, the occasional conduct of public worship by an elder or elders of the congregation.
26. In an emergency when, for any reason, it becomes evident at or before the time appointed for public worship that the responsibility of the ~~p~~Parish ~~m~~Minister under this Act has not been discharged, it shall be the duty of the Session Clerk, whom failing the senior elder present, to lead the congregation in an act of devotion, or invite someone else to do so, and to report the circumstances to the Clerk of the Presbytery as soon as possible thereafter.

### **Use of Church Buildings**

27. (1) The place of worship and other ecclesiastical buildings connected with every charge are at the disposal of the ~~p~~Parish ~~m~~Minister for the purposes of his or her office, subject only to the control of the Presbytery.
- (2) The ~~p~~Parish ~~m~~Minister may use them and grant permission to others to use them for all purposes connected with the congregation or any of its organisations, and also for all purposes of an ecclesiastical, religious, or charitable nature, even if they be not connected with the congregation, subject to the control of the Presbytery.
28. (1) The Kirk Session shall have such responsibility anent the use of the church as the Acts of the General Assembly prescribe. The ~~p~~Parish ~~m~~Minister shall not use the buildings nor grant the use of them for any other purposes without the consent of the Kirk Session, Deacons' Court, Committee of Management, or Congregational Board, as the case may be.
- (2) The Kirk Session, Deacons' Court, Committee of Management, or Congregational Board shall not be entitled to use the buildings for any purpose whatever without the consent of the ~~p~~Parish ~~m~~Minister, nor shall they grant the use of the buildings to others without his or her consent. In deciding for what uses the church may be granted the sacred character of the building shall be kept in view.

29. During a vacancy, or the time in which a Parish Minister has leave of absence from the charge, the Interim Moderator of the Kirk Session shall have the same rights in the use of the church buildings as the stated Parish Minister.
30. In congregations where provisions are made, either in the title-deeds of the property or in a constitution approved by the Presbytery with regard to the use of the church buildings which differ from what is set forth in Sections 27 to 29 of this Act, the provisions of such title-deeds or constitution shall remain in force to the exclusion of this Act in so far as it differs from these provisions, unless and until these provisions shall be competently altered.

#### **Engagement by Ministers of Word and Sacrament in Secular Employment**

31. No Minister of Word and Sacrament in a regular charge or appointment shall undertake any remunerative employment or office either within or outwith the jurisdiction of the Church without previously obtaining approval of the Presbytery of the Bounds or of the General Assembly.

#### **The Parish Minister Precluded from the Office of Congregational Treasurer**

32. No Parish Minister in a charge shall act as the Congregational Treasurer with respect to any of the congregations in that Charge.

#### **Retirement of Ministers of Word and Sacrament**

33. (1) A Minister of the Church of Scotland-Word and Sacrament inducted or introduced to a charge shall be inducted or introduced until the attaining of his or her seventy-fifth birthday, in which date his or her ministry shall terminate as if he or she had resigned his or her charge and such date been appointed by the Presbytery of the bounds for the demission by the Minister of Word and Sacrament of his or her charge.
- (2) Notwithstanding section 33(1), a Parish Minister inducted to a charge on a Basis of Unrestricted Tenure with an anticipated retirement age of 65 or 70 (in the case of Parish Ministers inducted prior to 31 May 1995), whose charge is one where the Presbytery Plan anticipates adjustment at the next vacancy, shall be subject to review by Presbytery at a point no later than six months before attaining the age of 65 or 70. The Presbytery shall have the right to terminate tenure on the grounds of necessary adjustment. For the avoidance of doubt, the Parish Minister shall be eligible to apply for another charge up to the age of 75.
- (3) For the avoidance of doubt, a Parish Minister inducted to a charge on a Basis of Reviewable Charge under section 12 of the Appraisal and Adjustment Act (Act VII 2003), does not have the right to remain in that charge beyond the period of tenure specified in the said Basis.

#### **Repeals**

34. This Act shall come into force on 1 January 2001 and Acts XVII 1931, XVII 1932, VIII 1933, II 1986 (as amended), IV 1995 (as amended), II 1987 and II 1999 shall be repealed at that date.

**SCHEDULE 4: Amendments and Repeals****Act III 2000 (Church Courts)**

In section 11,

- (1) Insert a new subsection (3) "a Pioneer Minister" and renumber accordingly
- (2) At subsection (6), delete "hospital" and substitute "healthcare"; and
- (3) Insert a new subsection (9) "a university chaplain" and renumber accordingly.

Delete the existing section 14 and substitute the following:

"Any individual who has the status of minister of the Church of Scotland, and who does not fall into any of the categories listed in section 11 to 13 above, shall be entitled to apply for membership of Presbytery on the basis of being registered in the Register of Ministry (as defined in the Registration of Ministries Act (Act ZZ 2017)) in category O or R. Such minister should be registered with the Presbytery within the bounds of which is situated the congregation of which the minister is a member, or the Presbytery within the bounds of which he or she lives, or (only in the case of any appointment for which the status of ordained minister is a requirement) the Presbytery within the bounds of which the appointment is based, as he or she may choose."

Delete the existing section 18 and substitute the following:

"A minister who has been permitted to resign his or her seat in Presbytery shall remain under the supervision and jurisdiction of the Presbytery which accepted the resignation, and may continue to exercise the functions of the ministry as defined in the Registration of Ministries Act (Act ZZ 2017), as permitted according to his or her listing and categorisation on the Register of Ministry."

In section 20 delete the words "satisfactory evidence of status and good standing" and substitute the following: "a certified extract of his or her entry on the Register of Ministry in the Presbytery from which he or she transferred or was most recently a member."

**Act III 2001 (Discipline of Ministry)**

Delete the existing sections 1(1)(i)(ii) and (iii) and substitute the following:

- (ii) suspension from the status and functions of ministry for a fixed period. Suspension may only be lifted in accordance with section 28 of the Registration of Ministries Act (Act ZZ 2017) upon application by the Respondent.
- (iii) suspension from the status and functions of ministry without limit of time but subject to a minimum period of suspension to be determined by the Presbyterial Commission when passing censure

upon the Respondent in terms of section 18(2) hereof. Suspension may only be lifted in accordance with section 28 of the Registration of Ministries Act (Act ZZ 2017) upon application by the Respondent.”

#### **Act IV 2001 (Ministers and Deacons in Public Office)**

*Delete the existing section 2(2) and substitute a new section 2(2) as follows:*

“It shall not be necessary for such a minister to make formal application to demit, but the Presbytery shall allow the demission unless there be special ground to refuse to do so, and shall appoint an Interim Moderator. If at the time of the demission the minister holds Category O registration, he or she may opt to retain that under section 19 of the Registration of Ministries Act (Act ZZ 2017), failing which the Presbytery shall re-register the minister on the Register of Ministry in Category R or Category I, the minister in question being entitled to choose between Category R or Category I registration.”

#### **Act XV 2002 (Long-Term Illness of Ministers)**

*Delete section 12 and insert a note in italics to say that these provisions are superseded by the RoM Act.*

#### **Act VIII 2003 (Vacancy Procedure)**

*Delete the existing section 18 (Eligibility for Election) and substitute the following:*

##### **18. Eligibility for Election**

The following categories of persons, and no others, are eligible to be nominated, elected, and called as ministers of parishes in the Church of Scotland, but always subject, where appropriate, to the provisions of Act IX 2002:

- (1) A minister holding Category O registration, in terms of the Registration of Ministries Act (Act ZZ 2017);
- (2) A minister who has applied for Category O registration, whose application is currently under consideration, provided that before the call can be sustained or the minister in question inducted, Category O registration must have been granted;
- (3) (a) A licentiate of the Church of Scotland who has satisfactorily completed, or has been granted exemption from, his or her period of probationary service.  
(b) A Graduate Candidate holding a Graduate Candidate's Certificate in terms of section 22 of Act X 2004.
- (4) The holder of a Certificate of Eligibility in terms of Act IX 2002. The holder of a Certificate of Eligibility who is a national outside the European Economic Area and Switzerland shall be eligible to apply for charges only in terms of section 27 of Act VIII 2003.

- (5) For the avoidance of doubt anyone who has served as an Interim Moderator in the current vacancy shall not be eligible to apply or to be considered as an applicant.
- (6) Notwithstanding subsections (1) to (4) above, an individual shall not be eligible to apply, or to be considered as an applicant, while he or she is the subject of ongoing proceedings being undertaken in accordance with the Discipline of Ministry Act (Act III 2001).

Delete the existing section 21(3) (Nomination) and substitute the following:

- (3) Before reporting the Nomination to the Vacancy Procedure Committee, the Presbytery Clerk shall obtain from the nominee or Interim Moderator evidence of the eligibility of the nominee to be appointed to the charge.
- (a) In the case of a minister being a member of Presbytery, this shall constitute a certified extract from the Register of Ministry showing that the minister has Category O registration.
- (b) In the case of a minister not being a member of any Presbytery of the Church of Scotland, this shall constitute an Exit Certificate or Graduate Candidate's Certificate in terms of Act X 2004, or a Certificate of Eligibility in terms of Act IX 2002.

Amend section 28(c)(ii) (Failure to Nominate) to read as follows:

"The Presbytery Clerk shall thereupon intimate to the person concerned the fact of his or her appointment, shall request him or her to forward a letter of acceptance along with a certified extract from the Register of Ministry showing that the minister has Category O registration, and shall arrange with him or her to conduct public worship in the vacant church or churches on an early Sunday."

Add the following wording at the end of section 29(1):

"and evidence of Category O registration in the form of a certified extract from the Register of Ministry."

In section 29(2), delete the words "and the letter of acceptance" and substitute "the letter of acceptance and evidence of Category O registration in the form of a certified extract from the Register of Ministry".

Add a new subsection (4) to section 30 (Sustaining the Call):

"No Call shall be sustained until evidence that the new minister has Category O registration, in the form of a certified extract from the Register of Ministry, has been laid before the Vacancy Procedure Committee."

### **Act XIII 2003 (Auxiliary Ministry)**

Delete the existing section 2(d) and substitute the following:

"When an Auxiliary Minister ceases to serve in a designated appointment then he or she shall become subject to section 19 of the Registration of Ministries Act (Act ZZ 2017).

**Act X 2004 (Selection and Training)**

*Insert a new subsection (6) to section 22 as follows and renumber the existing subsection (6) as subsection (7):*

“A Presbytery may issue a Graduate Candidate’s Certificate on up to three occasions only. Thereafter, in order to obtain a Graduate Candidate’s Certificate, the Graduate Candidate must apply for such a Certificate to the Registration of Ministries Committee, following an application procedure equivalent *mutatis mutandis* to that set out in section 27 of the Registration of Ministries Act (*Applications for Category O registration*) (Act ZZ 2017).”

**Act VI 2007 (Ministries Appeal Panel)**

*The second sentence of section 5 shall be deleted and the following shall be substituted:*

“The Ministries Appeal Panel shall also hear appeals by ministers and deacons taken against decisions of the Registration of Ministries Committee in terms of the Registration of Ministries Act (Act ZZ 2017), in accordance with section 33 of that Act.”

**Act VIII 2010 (Deacons)**

*Delete the existing section 11 and substitute the following:*

**The functions and sphere of service of a Deacon**

11. The functions of the Diaconate are defined in section 15 of the Registration of Ministries Act (Act ZZ 2017). Those functions may be exercised in one or more of the following spheres:
- (a) service in the employment of a Council, Committee or Court of the Church;
  - (b) service in a Chaplaincy, including University, College, School, HM Forces, Prison and Hospital, or as a Lecturer or Teacher in Religious Education, and in similar spheres;
  - (c) other service which is approved by the Ministries Council and the Presbytery concerned.

*Delete the existing section 14 and substitute the following:*

**“Responsibility for Life and Doctrine**

14. (a) A Deacon shall be responsible for his or her life and doctrine to the Presbytery having jurisdiction in accordance with section 4(ii) of the Registration of Ministries Act (Act ZZ 2017).
- (b) A Deacon is under obligation to notify the Presbytery Clerk of any change of address.”

*Delete the existing section 16 and substitute the following:*

**“Registration of Deacons**

16. Deacons shall be registered on the Register of Ministry in accordance with the provisions of the Registration of Ministries Act (Act ZZ 2017).”

*Delete the existing section 17 and insert a note in italics to say that these provisions are superseded by the RoM Act.*

*In Appendix A, delete the section currently headed “**Constitution**” and substitute the following:*

**“Constitution**

The Council shall consist of:

- (i) All Deacons registered on the Register of Ministry in Category E or R
- (ii) Deacons registered on the Register of Ministry in Category I may attend Council at their own expense and be non-voting members.
- (iii) Two members appointed by the Ministries Council
- (iv) Deacons ordained or commissioned by the Church of Scotland who are serving overseas as members of another Church shall be entitled when on furlough to attend all meetings of the Council as corresponding members without the right to vote.”

*In Appendix C, delete section 4, currently headed “**Membership**” and substitute the following:*

**“4. Membership**

All Deacons registered on the Register of Ministry in Category E or R shall be full members of the Association.

All Deacons registered on the Register of Ministry in Category I shall be associated but without voting power.

Deacons serving a probationary period shall be associated but without voting power.

Deacons ordained/commissioned by the Church of Scotland who are serving overseas as members of another Church may be corresponding members, and when on furlough may attend meetings but may not vote.

Deacons of other denominations may be associated.”

**Act VII 2011 (Protection of Vulnerable Groups)**

*Delete the existing section 1(c) and substitute the following:*

- (c) Minister, for the purposes of this Act only, refers to all Ministers of Word and Sacrament (as defined in the Registration of Ministries Act (Act ZZ 2017) undertaking regulated work with children and young people and/or protected adults and specifically includes retired Ministers of Word and Sacrament who are actively involved in ministerial functions in a congregation or congregations, locum Ministers, and Ministers registered on the Register of Ministry in Category R; however, the term Minister does not include ministers employed by external employers/agencies.

**Act IX 2011 (Ordained Local Ministry)**

*Delete the existing section 21(4) and substitute the following:*

“When an Ordained Local Minister ceases to serve in a designated appointment he or she shall become subject to section 19 of the Registration of Ministries Act (Act ZZ 2017).”

*Delete the existing section 22(2) and substitute the following:*

“When an Ordained Local Minister moves from one Presbytery to another he or she shall be subject to the terms of section 26 of the Registration of Ministries Act (Act ZZ 2017).”

*Delete the existing section 22(3).*

**Act II 2016 (International Presbytery)**

*In sub-paragraphs 1.2 and 1.3 of Schedule 2, delete the last sentence of each sub-paragraph and substitute the following:*

“On ceasing to be minister of the charge he or she shall cease to be a member of the Presbytery and will no longer be eligible to moderate the Kirk Session and shall not retain any ministerial status within the Church of Scotland, nor be entitled to be registered on the Register of Ministry or to be issued with a Certificate of Eligibility.”