

**VI ALTERNATIVE DISPUTE RESOLUTION PROCESSES ACT (ACT VI 2014) (AS AMENDED BY ACT X 2016 AND ACT XVI 2018)**

*Edinburgh, 17 May 2014, Session I*

The General Assembly enact and ordain as follows:–

**1. Principles of this Act**

- (1) Subject to section 5(1) of this Act, the Church wishes to afford parties to a dispute (which shall include a case or appeal, before any Church court) the opportunity to resolve their differences through alternative dispute resolution processes (“ADR”).
- (2) ADR may involve mediation, conciliation or facilitated conversation.
- (3) ADR will offer all parties to a dispute the opportunity to be heard, will encourage dialogue between the parties, and will provide the parties with time to explore the issues which have arisen between or amongst them, creating an opportunity for them to resolve their differences on a confidential basis.

**2. Initiation of ADR**

- (1) Subject to section 5(1) of this Act, it shall be the duty of each Presbytery, having regard to the wider interests of the Church, to consider whether ADR may be appropriate in the following circumstances:
  - (a) When a dispute first comes to the attention of a Presbytery, and
  - (b) When a dispute has just commenced under any Act or Regulation of the General Assembly.
- (2) If in such circumstances as are referred to in section 2(1) above, the Presbytery is of the view that the dispute is one where ADR might be employed, the Presbytery shall discuss with the parties what ADR may be available.

**3. Parties’ agreement required**

- (1) ADR shall be used only where all parties to the dispute agree to using ADR. If any party does not wish to use ADR, the fact of their decision not to participate in ADR shall not be adversely referred to or used to their prejudice in any later proceedings before any Church court.
- (2) No material arising from ADR shall be used in any subsequent court proceedings.

**4. Effect of using ADR**

- (1) If the parties are agreed that ADR is to be used, this shall be done without prejudice to existing formal procedures for resolving disputes under any Act or Regulation of the General Assembly, but subject to section 4(2) below.

- (2) Where any case or appeal has formally commenced under any Act or Regulation of the General Assembly, and the parties have subsequently agreed that ADR shall be used, the Church court having jurisdiction over the case or appeal shall sist the matter while ADR is utilised, subject to the following conditions:
- (a) Any such sist shall last for a maximum period of twelve weeks.
  - (b) If ADR does not result in an agreed disposal of the matter within such twelve week period, then the sist shall automatically be lifted subject to the Church court which imposed it having the power, prior to expiry of the said twelve week period, to extend the sist at its discretion. Any extension shall not result in the sist continuing for an aggregate period (comprising the initial twelve week period and all periods of extension) of longer than twenty six weeks.
  - (c) If ADR does result in an agreed disposal of the matter within such twelve week period (or any extended period(s) as provided for by paragraph (b) above), then the matter shall return to the Church court having jurisdiction for disposal in accordance with such agreement.

## 5. Use of ADR

- (1) ADR shall not be used where a matter is proceeding under any of the Acts listed in the Schedule to this Act.
- (2) ADR may be used where a matter is proceeding under any other Act or Regulation of the General Assembly, except where that Act or Regulation expressly excludes the applicability of this Act.

### SCHEDULE

#### Acts in respect of which ADR shall NOT be used

Act	No & year
Readership	Act XVII 1992
New Charge Development	Act XIII 2000
Admission & Readmission of Ministers	Act IX 2002
Long Term Illness of Ministers	Act XV 2002
Appraisal and Adjustment	Act VII 2003
Auxiliary Ministry	Act XIII 2003
Selection and Training for Full Time Ministry	Act X 2004
Deacons	Act VIII 2010
Local Church Review	Act I 2011
Ordained Local Ministry	Act IX 2011
Parish Ministry	Act II 2018
Safeguarding	Act XVI 2018