

XIII. NEW CHARGE DEVELOPMENT ACT (AS AMENDED BY ACTS V AND VIII 2003, ACT VII 2004, ACT X 2010 AND ACT IX 2014)

Edinburgh, 24th May 2000, Session 6

Interpretation

1. For the purposes of this Act, the following terms shall be deemed to have the meanings hereby assigned to them:

"The EMTG" shall mean the Emerging Ministries Task Group of the Ministries Council.

"The PPTG" shall mean the Presbytery Planning Task Group of the Ministries Council.

"The Presbytery" shall mean the Presbytery of the bounds of the New Charge or charge concerned.

"A New Charge" shall mean a new or newly established sphere of pastoral duty which shall be subject to the special legislative arrangements herein set out, which shall be a Reviewable Charge and which shall (except where the context indicates otherwise) include (a) a New Charge where there has been no previous congregation in existence and (b) a changed status New Charge. The New Charge may or may not have responsibility for a territorial parish area, but, in the event that the New Charge is not assigned a parish area, the entitlements and responsibilities of the congregations and ministers of any parishes in which the New Charge is operating shall not be affected, except by a regular process of adjustment in terms of Act VII 2003.

"A changed status New Charge" shall mean a New Charge where, prior to its constitution as such, there has been a congregation having full status ("the parent congregation") which has resolved at a Congregational meeting called for that purpose, that it shall adopt the status of, and be constituted as, a New Charge, whether in the same or a different place, and whether or not involving a change of parish boundaries or a transportation to a new parochial area.

"A New Charge congregation" shall mean a company of persons associated together for Christian worship, fellowship, instruction, mission and service in a New Charge parish whose names are on the Roll of Communicants and Adherents kept for the congregation, and who are under the pastoral oversight of a minister or ministers appointed as herein provided and under the pastoral and temporal oversight of a New Charge Commission.

"A New Charge Commission" shall be a body constituted in terms of Sections 7 and 8 hereof, and having the powers and duties therein provided.

"The New Charge Core Group" shall be a group constituted in terms of Section 9 hereof, and having the powers and duties therein provided.

A "New Charge Mission Design" shall mean the written plan to be worked up by the New Charge Commission, to set out the steps to be taken initially to develop the New Charge, but which shall not include matters relating to the provision or maintenance of buildings.

Preliminary Steps

2. At the request of the Presbytery of the bounds, or of the EMTG, or on its own initiative, the PPTG shall determine whether a New Charge is needed and should be constituted. Prior to determining finally to constitute a New Charge, the PPTG shall consult with and obtain the concurrence of:

- (a) the Ministries Council, with respect to any required re-allocation of endowments;
 - (b) the Church of Scotland General Trustees, in the event of any property or funds vested in or held by the Church of Scotland General Trustees being affected, or in the event of any property being subject to the control of the General Assembly;
 - (c) the Council of Assembly and the Ministries Council, in the event of any question arising with regard to accumulated shortfalls to central funds, to the extent that these had been declared by the Presbytery to be unjustified.
3. Thereafter a detailed Basis of New Charge (appropriately adapted to fit the circumstances applicable) shall be drawn up by the Presbytery.

In the case of a changed status New Charge, the terms of the Draft Basis shall be negotiated with the office-bearers of the congregation or congregations concerned, and afterwards presented to meetings of the congregation or congregations, and then, if thereat approved, to the Presbytery for its concurrence, declaring that no Basis affecting the rights of a minister shall be presented to his or her, or any other, congregation, without his or her prior written consent. The Presbytery, with the concurrence of the PPTG, may resolve that a Church Extension Charge adopts the status and is constituted as a New Charge, provided that this has been previously approved at a Congregational meeting called for that purpose, and that the Minister of the Charge has given his or her approval; it being declared that no formal Basis of New Charge will, in such a case, require to be drawn up and approved.

4. The Presbytery, following upon approval of the Basis by it and by the PPTG, shall then proceed to delimit the bounds of the New Charge, and the EMTG shall proceed to appoint the New Charge Commission and, if a name therefore has not yet been selected, shall name the New Charge. Where the New Charge is vacant, the EMTG shall further proceed to appoint the Minister.
5. In the case of a changed status New Charge, it is declared, for the avoidance of any doubt, that on the New Charge being constituted, the legal identity of its parent congregation (notwithstanding the dissolution of the Kirk Session and the Financial Board thereof) shall be continued within the New Charge, which shall, except in so far as otherwise provided for herein or in the Basis of New Charge, assume all rights and responsibilities of the parent congregation, and to which shall continue to belong all property and funds belonging to, or held for, the parent congregation.
6. It is further declared that New Charges are constituted and shall operate and function in accordance with the settled law and practice of the Church, except where any provision or arrangement herein cannot be so construed and which shall accordingly be deemed an exception thereto and be interpreted as such.

New Charge Commission

7. (1) The *New Charge Commission* shall consist of five (5) to seven (7) members, appointed by the EMTG in consultation with the Presbytery. The *New Charge Commission* may co-opt other members who shall be entitled to speak, but not to vote.
 - (2) The charge shall be deemed to have been constituted at the point at which the New Charge Commission is constituted.
 - (3) The EMTG shall appoint the Convener of the Commission.
 - (4) At its first meeting the Commission shall:
 - (a) appoint a Secretary;
 - (b) ensure that the Presbytery has provided adequate arrangements for (i) the continuing Church membership of members of the prior congregation and (ii) the provision of the ordinances of religion within the territorial area (if any) of the New Charge until the establishment there of a new ministry.
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8. (1) The purpose of the Commission shall be:
 - (a) to offer to the New Charge, strategic oversight appropriate to its formation and the
 - (b) to offer to the minister and other members of staff , pastoral support and a mechanism of accountability.
 - (2) The remit of the New Charge Commission shall be:
 - (a) to plan, in consultation with the EMTG and the Minister of the New Charge, its initial development;
 - (b) to form the New Charge Core Group provided for in Section 9 hereof;
 - (c) to provide pastoral support to the Minister and pastoral oversight of the New Charge congregation and undertake the functions exercised by a Kirk Session and a Financial Board in a congregation having full status, until such time as any such functions are delegated or transferred by the Commission to the New Charge Core Group; such delegation or transfer to occur as and when the Commission considers it appropriate, and in the case of the administration of Congregational and other funds, only following upon the appointment by the New Charge Core Group of a Treasurer to be responsible for the keeping of detailed accounting records and the preparation of annual accounts;
 - (d) to supervise the New Charge Core Group in relation to such financial and other matters as may have been entrusted to it by the Commission, and to appoint annually, auditors to inspect the accounts;
 - (e) to review its work on a regular basis, at least twice per annum, and to report to the EMTG and to the Presbytery through the appropriate Presbytery Committee;
 - (f) to carry out such other functions as may from time to time be delegated to it by the EMTG.

The New Charge Core Group

9. The New Charge Core Group shall be formed from members of the New Charge congregation, and shall be entitled to appoint one of its number to the Presbytery, such person having the status of being a corresponding member thereof. Vacancies shall be filled and new appointments made by the Commission from time to time as may be

required. The New Charge Core Group shall have such powers and shall undertake such duties as are from time to time delegated or transferred to it by the Commission.

Appointment of Ministers

10. (1) The appointment of the Minister of a New Charge where no congregation exists or has yet been gathered, shall be made by the EMTG in terms of Appendix A. In all such cases, the appointment shall be made only after the name of the minister nominated by the EMTG has been submitted to the Presbytery and it has agreed to sustain his or her appointment.
 - (2) In the event of the Minister nominated being unacceptable to the Presbytery, the EMTG shall nominate another Minister and the same procedure shall be followed as with the first nomination.
 - (3) Should the second nominee also prove unacceptable to the Presbytery, the Presbytery shall appoint a small sub-Committee to consult directly with the EMTG; the two bodies to act jointly in selecting a suitable minister who shall be appointed to the Charge.
 - (4) On the occurrence of a vacancy, the provisions of Acts VII and VIII 2003 shall apply, *mutatis mutandis*.
11. The Presbytery shall induct the Minister to the New Charge on the understanding it is a Reviewable Charge.
 12. In the case of ministerial appointments where a congregation exists or has been gathered, the procedure set out in Appendix B shall apply.
 13. In the event of the Minister appointed being a probationer or Graduate Candidate, the Presbytery shall take the necessary steps for ordination, if required, and induction to the New Charge.
 14. The Minister shall be responsible to the EMTG for the development of the Charge. The EMTG shall be responsible for the provision of learning opportunities and professional development for ministers in New Charges, and shall report the development or alteration of such provision to the General Assembly.
 15. He/she shall have a seat in Presbytery and shall be responsible to the Presbytery for matters of life and doctrine.

Financial Arrangements and Responsibilities

16. The stipend payable to the minister of a *New Charge* shall be the stipend to which he or she would be entitled under the prevailing stipend structures.
17. The EMTG may, *if appropriate*, fix a budget annually to meet the cost of developing the mission of the New Charge, and shall remit the amount concerned to the New Charge Commission. The Commission shall be responsible for administering this, together with other Congregational funds held locally, until such time as the Commission deems it appropriate to delegate said administration to the New Charge's Core Group.

18. It is the expectation that a New Charge congregation shall, as soon as possible after its constitution, start to assume responsibility for meeting regular expenses. A Financial Plan setting out a planned programme for the meeting by the New Charge congregation of its financial obligations shall be agreed by the Ministries Council and shall be reviewed every three years. The said financial obligations shall include:
 - (a) the remitting to the General Treasurer the agreed contribution to the Ministries and Mission Funds;
 - (b) the funding of the Missionary Outreach of the congregation;
 - (c) the repayment of the proportion, as fixed by the Ministries Council, of the cost incurred by it in providing buildings for the New Charge.
19. Until such time as the outstanding liabilities of the *New Charge* or former *New Charge* to the EMTG have been repaid, the New Charge or former New Charge shall submit a copy of the Annual Statement of Accounts, as submitted to the Presbytery, to the EMTG.
20. **Review Procedure**
 - (1) Reviews of the operation of the New Charge shall be carried out by the EMTG in consultation with the PPTG and the Presbytery.
 - (2) An interim review shall be carried out at the beginning of the third year of the life of the charge, so as to establish clear goals for the review conducted in terms of sub-section (4).
 - (3) To assist it with the fulfilment of its duties under Act VII 2003, the Presbytery may request the EMTG to initiate a review, the review to be carried out at the discretion of the EMTG.
 - (4) It shall be normal for both the charge and the tenure of the minister to be reviewed six months prior to the fifth and tenth anniversaries.
 - (5) All reviews shall be carried out by two representatives of the EMTG, one minister with New Charge experience (not from within the same Presbytery as the New Charge under review) and one Presbytery representative who is not otherwise involved with the charge under review.
 - (6) The reviews will focus on recognising the establishment of: leadership, mission initiatives, training and nurturing, functional growth structures and a sense of community building.
 - (7) The report of any review shall be issued to the EMTG to consider the future of the charge. It shall be the responsibility of the EMTG to decide whether or not the New Charge under review should continue.
 - (8) If it is considered that the New Charge should continue, an extract shall be submitted to the PPTG requesting its concurrence for the continuation of the appointment and charge.
 - (9) If it is considered that the New Charge should not continue, unless otherwise determined in consultation between the EMTG and the Presbytery, the charge shall be returned to the Presbytery. Thereafter the terms of Act VII 2003 shall apply.

Provision of and Arrangements for Buildings and Facilities

21. Where the New Charge has no suitable existing place of worship or manse, the EMTG shall take steps to provide suitable buildings for the New Charge, if appropriate. Any building contract relating to the erection of a new building shall run in the name of the

EMTG and the title to all heritable property acquired or pertaining to the New Charge shall be vested in, or transferred to, the Church of Scotland General Trustees.

22. The EMTG shall be entitled to sell any redundant heritable property of the New Charge and to apply the sale proceeds towards the acquisition costs of any new buildings, with the balance, if any, to be held and applied by the EMTG as a fund for the maintenance of the properties of the New Charge ("the Building Fund"). Where there are funds credited for the benefit of a parent Congregation of the New Charge in the Consolidated Fabric Fund, the Church of Scotland General Trustees shall transfer these to the EMTG to be amalgamated with or to form 'the Building Fund'. In the event of the EMTG, with the concurrence of the Presbytery and the Church of Scotland General Trustees, determining that the Building Fund is in excess of the fabric requirements of the New Charge and if the stipend of the New Charge is considered by the EMTG to be inadequately endowed, an appropriate allocation will be made from the Building Fund to its stipend endowment. Any surplus remaining shall be the subject of discussion with the General Trustees and may, subject to the General Trustees' concurrence, be allocated to the ordinary funds of the EMTG and used in connection with its general work.
23. Regulations 7 1995, applicable to the Consolidated Fabric Fund, shall be amended to facilitate the provision of section 22 hereof.
24. The EMTG shall be responsible for the maintenance and insurance of all the heritable properties of the New Charge and for all other outgoings with respect thereto.
25. The EMTG shall commission and obtain professional reports on the condition of the ecclesiastical properties of each New Charge five years after its constitution and thereafter at intervals of not more than five years from the date of the previous report. Copies of the said reports, which shall be similar in form and content to principal reports commissioned in terms of the Section 8 of the Act anent the Care of Ecclesiastical Properties (Act IX 1979) shall be forwarded to the Presbytery and the Church of Scotland General Trustees.

Application for Full Status

26. It shall be open to a New Charge to apply for full status at any time, normally after it has been in existence for five years and in any event before the eleventh anniversary of its constitution. It shall be open at any time to the Presbytery to take the initiative towards the erection to full status of any New Charge within its bounds, and in all cases the permission of the Presbytery shall be required (subject to the normal rights of appeal).
27. An application by a New Charge for full status shall be submitted in the first instance to the Presbytery of the bounds and the EMTG. If the Presbytery approves the application, or itself initiates the application, it shall forward to the EMTG such information regarding the life and witness of the New Charge as it considers relevant.
28. The EMTG, on receipt of the Application, shall consult with the Church of Scotland General Trustees so that the General Trustees may inspect the buildings of the New Charge to establish whether they are in a satisfactory state of repair. The Application

for full status shall proceed only once the General Trustees have indicated their satisfaction with the buildings. The EMTG shall provide the sum of £2,000 or such other sum as the EMTG, in consultation with the Church of Scotland General Trustees, may from time to time fix to provide the nucleus of a Fabric Fund to which sum shall be added (i) an equivalent amount from the Congregation; (ii) such sum as the Baird Trust may make available; and (iii) the Building Fund (if any).

29. There shall be transmitted thereafter by the EMTG to the Ministries Council the following documents:
 - (a) A Report from the EMTG containing such information regarding the Charge as shall enable the Ministries Council to make a judgement as to whether it is appropriate that it should be granted full status, including a note of the name of the parish, the form of constitution upon which the parish shall operate, and the Presbytery to which it shall belong upon erection to full status;
 - (b) An Extract Minute of the Church of Scotland General Trustees concurring in the proposals;
 - (c) A full description of the boundary of the parish to be erected to full status.

In all cases, the New Charge, on obtaining full status, shall be constituted either in terms of the Model Deed of Constitution or the Unitary Constitution, as determined by the EMTG in consultation with the Core Group and the Presbytery.

30. The Ministries Council shall thereafter decide whether to erect the charge to full status, and any resolution to do so shall contain the date upon which the resolution shall take effect, and confirmation of the name of the parish, the form of its constitution, the Presbytery to which it shall belong and the authoritative description of its boundaries.
31. The Solicitor of the Church shall, under the direction of the Delegation, then proceed with the preparation and issue of the Deed of Constitution for the Charge.
32. The whole expenses incurred shall be borne in equal shares by the congregation and by the EMTG.
33. On the New Charge attaining full status, the EMTG's responsibilities and rights of oversight of the Congregational properties shall cease except for any existing financial obligations in respect of new buildings. The Presbytery shall make formal intimation of the change of status to the congregation and shall take such other steps in connection therewith as may seem to the Presbytery appropriate, which shall in all cases include (i) an act of worship and (ii) such adjustment of the boundaries of neighbouring charges as is necessitated by the erection of the New Charge to full status.
34. On the New Charge attaining full status, the EMTG's responsibilities and rights of oversight of the Congregational properties shall cease, except for any existing financial obligations in respect of new buildings. The Presbytery shall make formal intimation of the change of status to the congregation and shall take such other steps in connection therewith as may seem to the Presbytery appropriate.
35. For the avoidance of doubt, this Act shall apply to New Charges constituted on or after 11 May 1999.

36. The EMTG will be responsible for formulating and updating guidelines for all areas of its work.
37. Regulations 3 1999 are hereby repealed.

APPENDIX A

The appointment of a minister of a New Charge Development in terms of section 10 of this Act shall use the following process.

1. Four members of the NCD Committee shall be appointed to the Nominating Committee as soon as the vacancy is intimated in order
 - (a) to oversee the Nomination Process;
 - (b) to arrange for consultation with the New Charge Commission and the Mission Developments Facilitator on the profile of the new Minister;
 - (c) to ensure Presbytery representation on the Panel.
2. The Nominating Committee shall consist of the aforesaid four members from the Committee, one Presbytery representative, one New Charge Commission representative and one other deemed appropriate to the panel. In the first instance it shall
 - (a) confirm the profile of the person to be appointed;
 - (b) agree on the recruitment process and timetable.
3. Candidates shall be invited to conduct worship in the presence of, the Mission Developments Facilitator and representatives of the Nominating Committee chosen by the Committee for that purpose. After the interviewing group has met the candidate a written report shall be submitted by them to the Nominating Committee.
4. Candidates shall be interviewed by the full Nominating Committee and the successful candidate thereupon invited to take up the charge (on the understanding it is a Reviewable Charge) subject to fulfilment of the requirements of the Protection of Vulnerable Groups Act (Act VII 2011) and approval by Presbytery of the appointment.

APPENDIX B

The appointment of a minister of a New Charge Development in terms of section 12 of this Act shall use the following process:

1. Four members of the NCD Committee shall be appointed to the Nominating Committee as soon as the vacancy is intimated in order to oversee the Nomination Process:
 - (a) to arrange for appropriate consultation with the congregation on the profile of the new Minister;

- (b) to agree appropriate Congregational representation on the Nominating Committee, being an odd number between three and seven according to the size and resources of the congregation;
 - (c) to ensure Presbytery representation on the Panel.
2. The Convener of the New Charge Commission shall be invited to arrange for the nomination and election of the required number of representatives from the existing congregation according to the provisions of Act VIII 2003.
 3. The Nominating Committee shall prepare a parish profile in consultation with the New Charge Core Group, Mission Developments Facilitator, parish staff and other appropriate Congregational leaders.
 4. The Nominating Committee shall consist of the aforesaid four members from the Committee, one Presbytery representative, one New Charge Commission representative and the Congregational representatives referred to in 1(b) above. In the first instance it shall
 - (a) confirm the profile of the person to be appointed;
 - (b) agree on the recruitment process and timetable.
 5. Candidates shall be invited to conduct worship in the presence of, the Mission Developments Facilitator, the Congregational representatives and one other representative of the Nominating Committee chosen by the Committee for that purpose. After the interviewing group has met the candidate a written report shall be submitted by them to the Nominating Committee.
 6. Candidates shall be interviewed by the full Nominating Committee, which shall appoint a Nominee who shall be elected and called by the congregation in terms of sections 21-25 of Act VIII 2003, *mutatis mutandis*, and thereupon invited to take up the charge (on the understanding it is a Reviewable Charge) subject to fulfillment of the requirements of the Protection of Vulnerable Groups Act (Act VII 2011) and approval by Presbytery of the appointment.

APPENDIX C

ACT ANENT ERECTING NEW CHARGE TO FULL STATUS

Edinburgh ... May 20...., Sess. ...

The General Assembly enact and ordain as follows:

1. Disjoin an area from the Parishes of and in the Presbytery of situated approximately in the and parts of the said Parishes respectively and the boundaries of which are more particularly described in the Minute of the said Presbytery dated provided always that the Presbytery of shall have power to revise or alter the boundaries of the said area from time to time.

2. Erect the said area so disjoined into a Parish of the Church of Scotland to be called the Parish of, and designate the said Church to be the Church of the said Parish.
3. Declare the said Parish of to be wholly within the jurisdiction of the Presbytery of
4. Find and declare that the Minister and Elders of the said Church and Parish as so erected shall have and enjoy the status and have all the powers, rights and privileges of a Parish Minister and Elders in connection with the Church of Scotland and shall form together the Minister and Kirk Session of the said Parish.
5. Provide and declare that any existing rights of the Ministers of the Parishes of and shall in no way be affected by the erection of the said Parish of
6. Appoint as a Constitution for the said Parish the form of the Model Deed approved by the General Assembly by Act II 1994/ Deed of Unitary Constitution [delete as appropriate] as applicable to the new Parish and remit to the Delegation of the General Assembly to execute and deliver the same after it is satisfied as to the vesting of the Church, Hall and Manse and endowment for stipend and fabric all in terms of Act XIII 2000; provided always as is hereby specially provided and declared that this Act shall not come into operation until the date of issue of the said Deed of Constitution.