

IV MINISTERS AND DEACONS IN PUBLIC OFFICE ACT (ACT IV 2001) (AS AMENDED BY ACTS VIII 2003 AND II 2017)

Edinburgh, 19 May 2001, Session I

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

1. (1) A minister or deacon in a charge or appointment of the Church who wishes to stand for:
 - (a) any elected public office where the performance of duties could involve more than an average of five hours per week or
 - (b) any office specified in Section 50 (2) of the Employment Rights Act 1996 c.18 as originally enacted (see the Appendix)shall inform the Presbytery of which he or she is a member of his or her intention before so standing.
- (2) A minister or deacon in such charge or appointment who is offered appointment to any public office which may affect the ability to discharge his or her ecclesiastical responsibilities shall inform the Presbytery of the offer.
- (3) A Presbytery shall have the right to commence process in terms of this Act on its own initiative.
2. (1) A minister or deacon elected as a Member of Parliament, a Member of the Scottish Parliament or a Member of the European Parliament or elected or appointed to any other full-time public office will be held to have demitted his or her charge or resigned his or her appointment immediately upon election or upon the date such other appointment becomes effective.
- (2) 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 II 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.
3. (1) When a minister or deacon in a charge or appointment of the Church stands for election as a local councillor or other part-time public office, or is offered, and does not decline to accept, any office referred to in section 1(1)(b) or section 1(2), the Presbytery shall judge whether it believes the bearing of such public office would be compatible with the exercise of the present ministry of the minister or deacon, and shall either
 - (a) give permission for him or her to remain in post whilst bearing the said public office, or
 - (b) in the event that the Presbytery judges that the public office sought or offered, if subsequently accepted, is not compatible with the proper fulfilment of the said ministry, it shall confer with the minister or deacon and with the office-bearers of the charge and determine either:
 - (i) that, if the minister or deacon is elected or accepts the public office, a special and reviewable arrangement of ministerial staffing and financing, to allow the minister or deacon to remain in post, should

- be created by the Presbytery subject to the approval of the Ministries Council's Committee on Planning and Deployment, or
- (ii) that the charge should be declared vacant, or other appointment terminated, in terms of section 2.
- (2) Any decision made in terms of this section shall be subject to review by the Presbytery at any time during the duration of the period of the office held.
4. Before a call to any Member of Parliament, Member of the Scottish Parliament or Member of the European Parliament or holder of any other full-time public office to any charge is sustained, or before he or she enters as a minister or deacon upon any appointment in the Church, he or she must have demitted such public office. Such a person may, if otherwise qualified, be nominated and elected to a charge on undertaking so to demit.
5. If a local councillor or the holder of another part-time public office or any office referred to in section 1(1)(b) wishes to hold, along with that office, any charge or appointment as a minister or deacon in the Church, he or she must apply to the Presbytery, which shall deal with the matter in a similar way to that laid down by section 3, and shall make a determination in terms similar to those laid down by section 3(1)(a) or 3(1)(b)(i), or shall determine that the applicant may not hold the charge or church appointment while holding the public office.
6. For the avoidance of doubt:
- (1) It shall not be necessary for a minister or deacon who demits office or appointment in terms of this Act to demit status.
- (2) It shall not be competent for a Presbytery or employer to grant to a minister or deacon indefinite, fixed-term or sabbatical leave or any comparable arrangement in order to bear office as defined in this Act.

APPENDIX

Section 50(2)(a) to (g) of the Employment Rights Act 1996 c.18 as originally enacted

- (a) A Local Authority,
(b) A Statutory Tribunal,
(c) A Police Authority,
(d) A Board of Prison Visitors or a Prison Visiting Committee,
(e) A relevant Health Body,
(f) A relevant Education Body, or
(g) The Environment Agency or the Scottish Environment Protection Agency.