

VII. PROTECTION OF VULNERABLE GROUPS ACT (AS AMENDED BY ACT XIV 2014 AND ACT II 2017)

Edinburgh, 26 May 2011, Session VI

The General Assembly enact and ordain as follows:–

Definitions

1. (a) *The Act*, is the Protection of Vulnerable Groups (Scotland) Act 2007 as amended from time to time.
- (b) *Scheme Record*, is a disclosure record prepared in terms of the Act and containing a scheme membership statement in connection with the undertaking of regulated work (as defined in the Act) with children and young people and/or protected adults and any vetting information which is held about the scheme member.
- (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 II 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.
- (d) *Deacon*, for the purposes of this Act only, refers to Deacons in the service of the Church, and not those Deacons employed by other agencies. For the avoidance of doubt, this Act does not apply to members of Deacons' Courts.
- (e) *Reader*, for the purposes of this Act only, refers to all Readers (including attached Readers) undertaking regulated work whose names appear on the Roll of Readers of any Presbytery in terms of section 6 of Act XVII 1992.
- (f) *The Council Secretary*, is the Secretary of the Ministries Council or any member of his/her departmental staff to whom he or she may from time to time delegate duties for the purposes of this Act only.

Scheme Membership Procedure

2. All Ministers, Deacons and Readers are required to complete the required forms in connection with (1) an application to Disclosure Scotland for Scheme membership for the purposes of regulated work with children and young people and protected adults and (2) subsequent applications for and in connection with Scheme Record Updates. The time at which individual applications shall be made, and the procedures which shall be followed, shall be determined by the Ministries Council in consultation with the Church's Safeguarding Service.
3. Applications for Scheme Record Updates shall be made on a five-yearly basis, the time running from the date of the previous Scheme Record or Record Update, as appropriate.
4. In the event that:
 - (a) Scheme membership is refused;
 - (b) notification is received subsequently that the Minister, Deacon or Reader concerned has been barred by Disclosure Scotland from undertaking regulated work with children and young people and/or protected adults; or
 - (c) the Minister, Deacon or Reader concerned refuses, or delays unreasonably, to complete the necessary forms in connection with the five yearly Scheme updating process;

the Clerk of the Presbytery of which the Minister or Deacon concerned is a member or to whose supervision the Minister, Deacon or Reader is subject shall be notified of the

position. The Presbytery shall then institute investigatory proceedings in terms of Act III 2001.

5. In the event of the Scheme Record containing conviction and/or non-conviction material which might affect the practice of ministry, the information disclosed shall be considered in the first instance by the Council Secretary of the Ministries Council. In the event that he or she determines that it might affect the practice of ministry, the matter shall be referred to the Church's Safeguarding Advisory Panel and the Minister, Deacon or Reader concerned shall be notified and given the opportunity to submit written representations for the Panel's consideration. The Panel shall thereafter determine whether or not the information does affect the practice on ministry and such determination, together with the Panel's reasons for its decision, shall be intimated in writing to the Minister, Deacon or Reader concerned. If the said Minister, Deacon or Reader is dissatisfied with the determination, he or she has the right of appeal to an Appeal Group drawn from the General Assembly's Safeguarding Appeals Panel whose decision shall be final. Such an appeal shall require to be intimated in writing to the Safeguarding Service within seven days of receipt of the written determination of the Advisory Panel. An appeal can be brought only on one or more of the following grounds:
 - (a) that there were irregularities in the process;
 - (b) that the Panel's determination was influenced by incorrect material fact (excepting the contents or accuracy of the Scheme Record any challenge to which will require to be taken up by the applicant direct with Disclosure Scotland through the procedures established by that body);
 - (c) that the Panel in reaching its decision acted contrary to the principles of natural justice.

In the event of no appeal being taken or, if there is an appeal, that the Appeal Group upholds the determination that the information disclosed is likely to affect the practice of ministry, that finding and the content of the Scheme Record shall with any further relevant information be sent by the Council Secretary to the Clerk of the Presbytery of which the Minister or Deacon concerned is a member or to whose supervision the Minister, Deacon or Reader is subject. The Presbytery shall then institute investigatory proceedings in terms of Act III 2001.

6. Applicants for consideration as candidates for the full-time Ministry in terms of Act X 2004 or the Auxiliary Ministry in terms of Act XIII 2003 or for the Diaconate in terms of Act IX 2001, will be required in connection with their completed application to complete the application form for Scheme membership. In addition an applicant who has not been habitually resident in Scotland for at least three years immediately prior to the date on which the Scheme membership application is being completed shall further produce such other information as the Ministries Council may require to satisfy it as to his or her suitability to undertake regulated work with children and young people and protected adults.
7. Applicants for admission or re-admission as ministers in terms of Act IX 2002 will be required in connection with their completed application to complete the application form for Scheme membership. In addition an applicant who has not been habitually resident in Scotland for at least three years immediately prior to the date on which the Scheme membership application is being completed shall further produce such other information as the Ministries Council may require to satisfy it as to his or her suitability to undertake regulated work with children and young people and protected adults.
8. The Ministries Council shall determine from time to time the way in which costs in relation to Scheme membership applications and Scheme Record Updates shall be met.

Discipline

9. Nothing in this Act shall be construed as disciplinary proceedings. In the event of a Presbytery deciding to instigate disciplinary proceedings following intimation to it in terms of Section 4 hereof, such proceedings shall be in terms of Act III 2001. In the event of a *prima facie* case being established, the Presbyterial Commission shall in connection with any other relevant information have before it the relevant information from the Scheme Record.
10. For the avoidance of doubt it is hereby declared that failure to comply with this Act shall constitute a disciplinary offence.

Repeal

11. Act XV 2003 (as amended) is hereby repealed.