

**XVI. PRECENTOR OR ORGANIST ACT (ACT XVI 1931)**

*Edinburgh, 26th May 1931, Session 12.*

The General Assembly declare and enact as follows:-

1. The appointment of the Precentor or Organist shall be made by the Kirk Session, which must be satisfied as to the Christian character of any applicant before he or she be recognised as eligible. A precise record of terms of appointment shall be entered in the Minutes of the Kirk Session.
2. The salary of the Precentor or Organist shall be determined by the Deacons' Court, Committee of Management, or Congregational Board where such body exists. In all other cases it shall be fixed by the Kirk Session.
3. The Kirk Session shall be at liberty to consult the Deacons' Court, Committee of Management, or Congregational Board with regard to the terms of appointment of the person to be appointed.
4. In the conduct of public worship the Precentor or Organist shall be under the direction and control of the minister.



**XX. DEATH OF A MINISTER ACT (ACT XX 1931)**

*Edinburgh, 26th May 1931, Session 12.*

The General Assembly declare and enact as follows:-

Upon the occasion of the death of a minister, the Presbytery of the bounds shall meet at the church of the minister deceased, immediately after the funeral and without formal summons, to appoint an Interim Moderator and to transact any necessary business connected with the vacancy, unless otherwise intimation has been duly made to members by advertisement or by individual notice.



**X. ELECTION AND ADMISSION OF ELDERS AND DEACONS ACT (ACT X 1932) (AS AMENDED BY ACTS XXVIII 1996, II 1998, VII 2000 AND I AND II 2019)**

*Edinburgh, 26th May 1932, Session 5.*

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

**ELDERS**

1. The Kirk Session shall determine the number of elders required for the oversight of the congregation, and the time when a new election is to take place. The Kirk Session shall determine the mode of election, which may be either by the choice of the Kirk Session itself as provided for in Section 2, or by the direct vote of the members of the congregation as provided for in Sections 3 and 4.

**Election by Resolution of Kirk Session**

2. The Kirk Session itself may elect as elders, when an addition to the number of elders is considered necessary, such persons as are deemed suitable for the office who shall be members of the congregation in full communion and shall have attained the age of eighteen years. In this case the Kirk Session shall confer with those who are so chosen, and upon obtaining their consent shall proceed to their ordination and admission in terms of Sections 7, 8 and 9.

**Election by Vote of Congregation**

3. When the Kirk Session has resolved that it is expedient to have an election of elders, and has fixed the number to be elected, and the date of the election, and has resolved that the method of election be by vote of the members of the congregation, due intimation thereof shall be made at this time of public worship, on the two successive Sundays preceding the date of election. It is desirable to give the congregation even earlier intimation of an intended election so that the members may have time to inquire regarding persons suitable for the office, who shall be members of the congregation in full communion and shall have attained the age of eighteen years.
4. The election of elders by vote of the congregation may be made in either of the two following modes, viz: (a) At a congregational meeting held in the presence of the Kirk Session *for the purpose of nominating persons for the office*, to be voted upon, if necessary, as the meeting may determine. (b) By *signed lists*. The Kirk Session shall determine in which of these ways the election shall be made; and give directions to the members accordingly when intimating that the election is to be made.
  - (a) When mode (a) is followed, intimation shall be made on at least two Sundays immediately preceding the meeting, that a congregational meeting will be held *for the purpose of nominating persons for the office of eldership*; with certification that if the number nominated does not exceed the number required, those nominated will be declared to be elected, subject to the judgement of the Kirk Session (see Section 5), and that if the number nominated exceeds the number required, a vote of the congregation on those nominated will be taken by standing up or by voting papers, as the meeting may determine. The Moderator of the Kirk Session or a minister of the church authorised by him or her in writing shall preside and open the meeting with devotional exercises. The names proposed and seconded shall be taken down. After full opportunity has been given for proposing names, the Moderator shall ascertain whether any additional names are to be proposed, and

if none are proposed the leet shall be declared closed. If the number on the leet does not exceed the number of elders required, the Moderator thereupon shall declare them elected to the office of the eldership, subject to the judgement of the Kirk Session. (See Section 5). If the number on the leet exceeds the number required, the Moderator shall engage in prayer for the divine guidance in the election; and the meeting shall decide whether the vote will be taken by standing up, or by voting papers issued to the members of the congregation. If it is agreed to vote by standing up, the names shall be submitted successively to the meeting in the order in which they have been nominated, and shall be voted upon by the meeting. No member shall vote for more than the number for which the congregation is asked by the Kirk Session to vote. Those, to the number required, having the highest number of votes shall be declared to be elected, subject to the judgement of the Kirk Session (See Section 5.)

If the meeting resolve that voting papers be used, the meeting shall be closed. The Kirk Session thereafter shall cause voting papers to be prepared and distributed to the members of the congregation, containing the names of those on the leet arranged in alphabetical order, together with full instructions as to marking, signing, and returning the voting papers on or before a time appointed by the Kirk Session. The voting papers shall be examined, and the votes shall be counted by the Kirk Session; and those, to the number required, who have the largest number of votes shall be declared to be elected, subject to the judgement of the Kirk Session. (See Section 5.)

- (b) Where mode (b) is followed, the Kirk Session by intimation made from the pulpit shall request the members to give in lists containing the names, to a number not exceeding that which the congregation is asked to vote for, of members of the congregation in full communion whom they desire to be elected; each list being duly signed by the member or members voting by it, and being given in at the place and by the time fixed by the Kirk Session.

The lists shall be examined, and the votes counted by the Kirk Session; and those, to the number required, who have the largest number of votes shall be declared to be elected, subject to the judgement of the Kirk Session. (See Section 5.)

The Kirk Session, when intimating the number of elders required, may call upon the congregation to vote for a number as nearly as may be one-half more than the number required; as six when four, or eight when five are required. If this is done, those to the number required who have the highest number of votes, whatever mode of voting is followed, shall be held to be elected; but should the election of any of them not be sustained, or should any decline to accept office, the next highest shall be held to be elected, provided the session judges that a sufficient number of votes has been given for him or her; and so on, if necessary, until the whole number for which the congregation has been asked to vote is exhausted. Or should the Session judge it advisable, it may, when the result of the vote is ascertained, at once declare to be elected those for whom most votes are given, up to the number for which the congregation was asked to vote. (For Form of Intimation see Schedule, A.

5. The Kirk Session shall judge of the qualifications of those elected before sustaining their election. As part of this process, the Kirk Session shall require all elders-elect to confirm that they have not previously been ordained as an elder in the Church of Scotland and then resigned that status or had that status judicially removed. No one shall be admitted

as a ruling elder if the Kirk Session be not satisfied with his or her qualifications, unless its judgement be reversed by a higher Court. When the Kirk Session is satisfied as to the fitness of the persons elected, and has sustained their election, it shall confer with them in regard to their acceptance of office; and on obtaining their acceptance it shall appoint the time of their ordination or admission, and shall proceed in terms of Sections 7, 8 and 9.

#### **Provision for Fixed Term Membership of Kirk Session**

6. Notwithstanding the fact that an elder is ordained for life, a Kirk Session may determine, in advance, that the admission of any particular elder to membership of the Kirk Session should be for a prescribed fixed term period. Such fixed term membership may subsequently be extended by agreement of the Kirk Session and with the concurrence of the individual elder concerned. In the absence of such agreed extension, on the expiry of the fixed term period any such elder shall cease to be a member of the Kirk Session, but shall remain eligible for readmission, if so invited by the Kirk Session, at a future date.

#### **Admission to Office**

7. The Session Clerk shall prepare an edict to be read from the pulpit on two Sundays giving intimation that if any person have objection to the life or doctrine of any of those proposed to be ordained or admitted, such objection shall be given in to the Session at a meeting duly intimated in the edict, to be held not less than seven free days after the edict is first served; with certification that if no objection be given in and substantiated at the time and place of which notice is given, the Kirk Session will proceed with the ordination or admission at the time appointed for it. (For Form of Edict see Schedule, C and D.)
8. At the time and place intimated in the edict the Kirk Session shall meet to receive any objection which may be offered. The edict shall be returned, certified as duly served. Any objection made shall refer to the life or doctrine of the elder-elect. If any objection is made, and forthwith substantiated, or if the Kirk Session judge that further inquiry is necessary, the Kirk Session shall not proceed to the ordination or admission of the person objected to until the objection is disposed of. Objections which in the judgment of the Kirk Session are frivolous or unsupported by evidence shall be set aside, and the ordination or admission proceeded with.
9. The ordination and admission to office shall take place in presence of the congregation, at a diet of public worship. The Kirk Session having been constituted, the Moderator shall narrate the steps that have been taken, and put the prescribed question. On receiving satisfactory answers, and after the elders-elect have signed the Formula, the Moderator shall admit to office in the congregation any who have already been ordained to the eldership, and ordain by prayer and admit to the office of ruling elder in the congregation those not previously ordained, commending them to the grace of God for the work to which they are appointed; the right hand of fellowship shall be given by the Moderator and other members of Kirk Session to the newly admitted elders, and the service concluded with suitable exhortations to them and to the congregation. Thereafter the newly ordained and admitted elders have their names added to the roll, and take their seats in the Kirk Session. (For Question and Formula see Schedule, E and G.)

## **DEACONS**

10. The Kirk Session shall determine when it is expedient to have an election of deacons, and what number is required. The Kirk Session shall exercise precisely the same functions with reference to the election and ordination or admission of deacons as in the case of elders in accordance with the procedure outlined in Sections 3-9. It is not desirable that a vote for election of elders and deacons be taken at the same time. (For Question and Formula see Schedule, F and G.)
11. Minutes of all proceedings in connection with the election, ordination, and admission of elders and deacons shall be recorded in the Minute-Book of the Kirk Session.
12. In place of the above method of electing deacons, congregations may resolve that the office of deacon shall be held by persons, being male or female, members of the congregation in full communion and eighteen years of age, who shall, without ordination, be appointed thereto for a term of years.  
Such terminable appointment to the office of deacon shall be for a period of three years, and the regulations governing the election and appointment of managers and members of a congregational board shall apply to the election and appointment of deacons after this method.  
The names of deacons thus elected who accept office shall be read over to the congregation on the first convenient Sunday after their election, and the minister shall commend them in prayer to the grace of God for the work to which they have been appointed.  
Resolutions involving changes in the constitution of a Deacons' Court shall be adopted either at a congregational meeting duly appointed by the Kirk Session and held for that express purpose, of which full intimation has been previously given on at least two Sundays; or by voting papers, the issue of which shall be similarly authorised and intimated by the Kirk Session. (See Schedule B.)  
When a proposal for changing the method of administering its temporal affairs is before a congregation, no step shall be taken by the Kirk Session towards the election of persons to any such office until the proposal for change has been disposed of.  
In the event of a congregation making the above change as regards the persons eligible for the deaconship and the tenure of their office, such change shall be duly notified to the Presbytery.

### **Election of Representative Elder to Presbytery and Synod**

N.B. This Section has been superseded by Act III, 1992, Sections 18-20 and Act V, 1992 and Act VI, 1992.

## **SCHEDULE**

### **A. INTIMATION OF ELECTION OF ELDERS**

#### **(a) At a Congregational Meeting**

The Kirk Session has decided that the number of elders in this congregation shall be increased by (number), and the new elders shall be nominated at a meeting of the congregation.

Therefore a meeting of this congregation will be held in (place) on (date) at (time) for this purpose. If the number nominated does not exceed (the same number as above),



those nominated will be declared to be elected, subject to the approval of the Kirk Session. If the number nominated exceeds (the same number as above), a vote will be taken by standing up or by voting papers as the meeting may determine. This intimation is the formal legal notice for this process.

**By order of the Kirk Session**

..... Session Clerk

**(b) By Signed Lists**

The Kirk Session has decided that the number of elders in this congregation shall be increased by (number), and the method of election shall be by means of signed lists. Members are therefore requested to hand in lists, signed by the members giving them in. Such lists should contain the names of members of the congregation suitable for the office of eldership, and each list should not exceed (same number as above) names in all (there should follow details of the arrangements for the receiving of lists, including a time limit).

*By order of the Kirk Session*

..... Session Clerk

*Note: Amend wording appropriately where any of the elders are to have fixed term membership of the Kirk Session in terms of section 6.*

**B. INTIMATIONS FOR THE ELECTIONS OF DEACONS**

(A) Life-Appointment. The same forms shall be used, *mutatis mutandis*, as for election of elders.

(B) Appointment for a term of years.

(a) A meeting of this congregation will be held (place) on (date) at (time) to consider whether the office of deacon in this congregation shall be held by communicant members of the congregation over 18 years of age, who without ordination will be set apart to office for three years.

(b) The Kirk Session has decided to take a vote of the congregation on the question whether the office of deacon in this congregation shall be held by communicant members of the congregation over eighteen years of age, who without ordination will be set apart to office for three years. The vote will be by voting papers and (there follow the arrangements for the issuing and receiving of voting papers, including a time limit).

*By order of the Kirk Session*

..... Session Clerk

*Note. – When deacons are elected by the latter manner, the election may take place either at the Annual Business Meeting or by means of voting papers in accordance with a plan which the congregation shall appoint.*

**C. EDICT FOR ORDINATION AND ADMISSION OF ELDERS**

(List the names in alphabetical order using the normal first name, not initials), members of this congregation have been elected to be ruling elders (and the Kirk Session has judged them to be qualified for that office and has sustained their election)\*; (list the names) have accepted office as elders: if anyone has any objections why any of these members should not be ordained (or (if any of those elected are already ordained elders) admitted) to office, they state their objection at the meeting of the Kirk Session in (place) on (date) at (time); if no relevant objection regarding life or doctrine is made and substantiated, the Kirk Session will proceed to the ordination (or ordination and admission).

*By order of the Kirk Session*

..... *Session Clerk*

*\*Omit words in brackets when election is made in terms of Regulation 2*

*Notes. – (1) The same form is used, mutatis mutandis, when deacons are to be ordained. (2) Amend wording appropriately where any of the elders are to have fixed term membership of the Kirk Session in terms of section 6.*

**D. ATTESTATION OF EDICT BEING SERVED**

Church, the                      day of                      , 20  
The above edict was this day duly served by me, in the face of the congregation.

..... *Minister (or, preacher)*

**E. PREAMBLE, QUESTION AND FORMULA FOR USE AT ORDINATION AND ADMISSION OF ELDERS**

**Preamble**

*The narrative shall be read and, the elders-elect having taken their places before the Session, the Moderator shall declare as follows:-*

In the name of the Lord Jesus Christ, the King and Head of the Church, Who, being ascended on high, has given gifts to God’s people for the edifying of the body of Christ, we are met here as a Kirk Session to ordain A, B, C, D, etc., to the eldership, and to admit E, F, G, H, etc., into that office in this congregation.

In this act of (ordination and/or) Admission the Church of Scotland, as part of the Holy Catholic or Universal Church worshipping One God – Father, Son and Holy Spirit – affirms anew its belief in the Gospel of the sovereign grace and love of God, wherein through Jesus Christ, His only Son, our Lord, Incarnate, Crucified, and Risen, He freely offers to all people, upon repentance and faith, the forgiveness of sins, renewal by the Holy Spirit, and eternal life, and calls them to labour in the fellowship of faith for the advancement of the Kingdom of God throughout the world.

The Church of Scotland acknowledges the Word of God, which is contained in the Scriptures of the Old and New Testaments, to be the supreme rule of faith and life.

The Church of Scotland holds as its subordinate standard the Westminster Confession of Faith, recognising liberty of opinion on such points of doctrine as do not enter into the

substance of the Faith, and claiming the right, in dependence on the promised guidance of the Holy Spirit, to formulate, interpret, or modify its subordinate standards: always in agreement with the Word of God and the fundamental doctrines of the Christian Faith contained in the said Confession – of which agreement the Church itself shall be sole judge.

*Then the Moderator, addressing the elders-elect, who are to stand and make answer to the question put to them, shall say:-*

In view of this Declaration you are now required to answer this question:-

Do you believe the fundamental doctrines of the Christian faith; do you promise to seek the unity and peace of this Church; to uphold the doctrine, worship, government, and discipline thereof; and to take your due part in the administration of its affairs?

*The question having been answered to the satisfaction of the Session and the Formula having been signed by the elders-elect, the Moderator, by prayer, shall ordain them to the office of the eldership.*

*Thereafter the Moderator shall add these words:-*

(I now declare you to have been ordained to the office of the eldership, and) in the name of the Lord Jesus Christ, the King and Head of the Church, I admit you to office in this congregation. In token thereof we give you the right hand of fellowship.

*Note. – The words in brackets shall be omitted when the elders-elect have been formerly ordained.*

#### **F. ORDINATION OF DEACONS**

*The same preamble shall be read, mutatis mutandis, and the same question shall be put to deacons as to elders.*

#### **G. FORMULA TO BE SIGNED BY ALL OFFICE-BEARERS**

I believe the fundamental doctrines of the Christian faith contained in the Confession of Faith of this Church.

I acknowledge the Presbyterian government of this Church to be agreeable to the Word of God, and promise that I will submit thereto and concur therewith.

I promise to observe the order of worship and the administration of all public ordinances as the same are or may be allowed in this Church.



**XVIII. CONGREGATIONAL MEETINGS ACT (ACT XVIII 1932) (AS AMENDED BY ACT VIII 2003 AND ACT IV 2016)**

*Edinburgh, 1st June 1932, Session 12.*

The General Assembly declare and enact as follows:-

1. Congregational Meetings shall be held from time to time, as may be found necessary, by order of the Kirk Session, the Presbytery of the bounds, or a superior Court, or, in the case of meetings specified in Section 4 of this Act, by authority of the Deacons' Court, Committee of Management, or Congregational Board, as the case may be.
2. The Interim Moderator in a vacancy shall have power, in virtue of his or her office, to summon meetings of the congregation in terms of the Regulations for the election, settlement, and translation of ministers.
3. When a Presbytery appoints a committee to confer with a congregation on any matter, the Convener of such committee shall have power to summon a meeting of the congregation in name of the Presbytery to deal with the remit received.
4. (a) In cases where the financial affairs of the congregation are administered by a Deacons' Court or a Congregational Board appointed according to the forms of the former United Free Church, the annual business meeting of the congregation shall be called by the Deacons' Court or by the Congregational Board, by the 30<sup>th</sup> day of June in each year following the close of the financial year.  
(b) In cases where the financial affairs of the congregation are administered by a Committee of Management, ordinary meetings for financial purposes, or in connection with the Church property, as may be provided for in the Constitution of the Congregation, shall be called by the Committee of Management, by the 30<sup>th</sup> day of June in each year following the close of the financial year. Special meetings for similar purposes shall be called as may be found necessary, by the Committee of Management with the concurrence of the Kirk Session.
5. At all Congregational Meetings, with the exceptions specified hereafter in this section, the Moderator of Kirk Session shall preside, or a minister of the Church authorised by him or her in writing or appointed by the Presbytery or a superior Court. In Charges where the Deed of Constitution for *Quoad Sacra* Parishes has been adopted, in the absence of the Moderator of Kirk Session or his or her deputy, a chairman shall be appointed by the meeting. In cases where the meeting has been called by the Deacons' Court, any office-bearer may be called on to preside in the absence of the Moderator of Kirk Session. In the case of Charges where there is a Committee of Management, the Preses of the Managers shall preside at ordinary financial meetings of the congregation, and in his or her absence a chairman shall be appointed by the meeting; at special financial meetings, the meeting shall elect its own chairman.
6. All Congregational Meetings, with the exception of those specified in Section 7 of this Act, shall be intimated from the pulpit on the two Sundays immediately preceding the meeting, and the notice summoning the meeting shall be attested by the officiating minister or preacher as having been duly made by him or her.

7. In the following cases, intimation of a Congregational Meeting on one Sunday shall suffice:-
  - (a) The annual business meeting of Charges where the finances are under the control of a Deacons' Court, a Congregational Board constituted under the forms of the United Free Church, or a Committee of Management.
  - (b) Meetings held in connection with proposals for union and readjustment of agencies, unless a basis of union is to be submitted for approval, in which case the meeting shall be intimated on two Sundays.
8. It shall not be competent to raise any question in regard to the sufficiency of the notice of a Congregational Meeting, unless a petition specifying clearly the nature of the objection be sent to the Moderator of Kirk Session (or Moderator of Presbytery, if the meeting be held by order of the Presbytery or a higher Court) within eight days after the meeting has been held.
9. Except in the case of meetings specified below, the Session Clerk shall act as Clerk to Congregational Meetings. The Minutes shall be submitted in draft at the end of the meeting and shall thereafter be engrossed in the Records of the Kirk Session. In the absence of the Session Clerk a Clerk shall be appointed for the meeting. In Charges where the Deed of Constitution for *Quoad Sacra* Parishes has been adopted, the Clerk to the Congregational Board shall act as Clerk at the statutory annual meeting of the congregation, and the Minute shall be engrossed in the Minute-Book of the Congregational Board. Where there is a Deacons' Court, a Congregational Board constituted according to the forms of the United Free Church, or a Committee of Management, the Clerk of the Deacons' Court, Congregational Board, or Committee of Management shall act as Clerk at Congregational Meetings for financial purposes, and the Minute shall be engrossed in the records of the Deacons' Court, Congregational Board, or Committee of Management, as the case may be.
10. In Charges where provisions are made either in the title-deeds of the property, or in a constitution approved by the Presbytery, with regard to the holding of Congregational Meetings, which differ from what is set forth in Sections 1 to 9 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.

**XXVI. PROCEEDS OF SALES (UNUSED PROPERTIES) ACT (ACT XXVI 1933)**

*Edinburgh, 23rd May 1933, Session 2.*

The General Assembly declare and enact as follows:-

The General Assembly enjoin Presbyteries in cases in which a congregation is being dissolved or where a union with another congregation is being effected to take steps (1) to secure that the importance of applying the funds arising therefrom or from the sale or sales of any property of the congregation concerned consequent upon such dissolution or union (where this shall be permissible under the terms of the title to the congregational properties) towards church extension purposes in neighbouring districts, or for the provision of church hall accommodation for neighbouring congregations which are not fully equipped, shall be timeously and appropriately represented to the congregation concerned – with a view to their adopting a plan of allocation towards such purposes of the sums at their disposal which can be approved by the Presbytery and the General Assembly, and (2) to remind all congregations that, in the possession of their property, they are stewards of the liberality of former members of the church, and are in honour bound, in their disposal of the proceeds of property no longer necessary for purely congregational purposes, to keep in view the general needs of the church, and to consider whether they will not best give effect to the intentions of the donors through whose generosity the property was originally acquired, by supporting plans for the church extension or for the provision of manse or hall accommodation such as aforesaid which have been approved of by the Presbytery.





**VIII. OFFICE OF DEACON ACT (ACT VIII 1935)**

*Edinburgh, 22nd May 1935, Session 3*

The General Assembly, with consent of a majority of Presbyteries, enact and ordain the office of Deacon\* may henceforth be held by women members of the Church on the same terms as men.

\* (of a Deacons' Court)



### **VIII. H.M. FORCES (KIRK SESSIONS) ACT (ACT VIII 1952)**

*Edinburgh, 21st May 1952, Session 3.*

The General Assembly, with consent of a majority of Presbyteries, enact and ordain as follows, notwithstanding any other enactment to the contrary:-

1. Where members of the Church of Scotland serving in any embodied unit of Her Majesty's Forces desire authority for the constitution of a Services Kirk Session in their unit, they may apply to the Committee on Chaplains to Her Majesty's Forces requesting the Committee to take steps to that effect.
2. On receiving any such application, the Committee shall first satisfy itself –
  - (i) that the unit in question comprises a sufficient number of persons who are or may desire to become members of the Church of Scotland;
  - (ii) that a Services Kirk Session, if constituted in that unit, would have a reasonable prospect of continuing in existence for a material period; and
  - (iii) that the application has the approval of the Church of Scotland chaplain concerned and of the commanding officer of the unit;and, if satisfied of these matters, may take steps to authorise the constitution of a Services Kirk Session in the unit.
3. A Services Kirk Session shall consist of the Church of Scotland chaplain of the unit, failing which, of any other Church of Scotland chaplain, as Moderator, and also of not less than two duly ordained elders of the Church of Scotland who are members of the unit. Nothing herein contained shall prevent a Church of Scotland chaplain from acting as Moderator of more than one Services Kirk Session.
4. Notwithstanding the foregoing provisions, for the purpose of enabling a Services Kirk Session to be constituted in any unit of Her Majesty's Forces where there is available no, or only one, duly ordained elder of the Church of Scotland, the Committee on Chaplains to Her Majesty's Forces shall appoint as assessors not less than three duly ordained elders, and any of these elders may act along with the Church of Scotland chaplain of the unit, or failing which, any other Church of Scotland chaplain, and any elder in the unit, as an interim Services Kirk Session for that unit to enable the election, ordination, and admission to the eldership of a sufficient number of members of the Church of Scotland in the unit to constitute a Services Kirk Session as provided for by Section 3; and, in any such case, the ordination and admission of the said elders shall be conducted by such chaplain with any available elders in the unit, after approval of the election has been given by the said assessors as well as by the said chaplain and any available elders in the unit.
5. Before any Services Kirk Session, or interim Services Kirk Session, is constituted, it shall first be authorised by the Committee on Chaplains to Her Majesty's Forces.
6. A Services Kirk Session may itself elect further elders when an addition to its numbers is considered necessary. Any elder so elected shall be a member of the Church of Scotland and also a member of the unit.

7. The ordination and admission of an elder to office in Services Kirk Session shall take place at a diet of public worship.
8. Intimation by edict in common form of the election of any person as elder by Services Kirk Session or Interim Services Kirk Session shall not be necessary, but it shall be the duty of any chaplain, before ordaining or admitting any such person to office as elder in such Kirk Session, to take all steps reasonable and practicable in the circumstances to be satisfied that no objection exists to such person's life or doctrine, and, in discharging this duty, the chaplain shall consult with any available elder.
9. Each Services Kirk Session shall be associated with a Presbytery of the Church of Scotland. Where the unit has a depot in Scotland the Services Kirk Session of that unit may elect to be placed on the roll of the Presbytery of the bounds. In other cases, the Services Kirk Session shall be placed on the roll of the Presbytery of Edinburgh.
10. The placing of a Services Kirk Session on the roll of a particular Presbytery shall not affect the existing membership of Presbytery of any chaplain to Her Majesty's Forces.
11. The Committee on Chaplains to Her Majesty's Forces shall keep a Register of Services Kirk Sessions authorised by the Committee.
12. The Committee on Chaplains to Her Majesty's Forces shall report each year to the General Assembly on the state of its Register of Services Kirk Sessions.

**XXVI. RE-MARRIAGE OF DIVORCED PERSONS ACT (ACT XXVI 1959) (AS AMENDED BY ACTS II 1985 AND II 2004)**

*Edinburgh, 26th May 1959, Session 12.*

Notwithstanding anything contained in the Act of 27th August 1647 approving of the Confession of Faith or in any other enactment of the General Assembly, the General Assembly, with consent of a majority of Presbyteries, enact and ordain as follows:-

1. A minister of the Church of Scotland may lawfully solemnise the marriage of a person whose former marriage has been dissolved by divorce and whose former spouse is still alive, provided that the said minister adhere to the requirements stated hereunder.
2. A minister shall not accede as a matter of routine to a request for the solemnisation of marriage of persons whose marriage has been dissolved by decree of divorce as aforesaid.
3. A minister invited to celebrate such a second marriage shall, in order to enable a decision to be made, take all reasonable steps to obtain relevant information which shall normally include the following:-
  - (a) adequate information concerning the life and character of the parties to be married; here the very greatest caution shall be exercised in cases where, for any reason, no pastoral relationship exists between the minister and either or both of the parties concerned;
  - (b) the grounds and circumstances of the divorce case;
  - (c) facts bearing upon the future well-being of any children concerned;
  - (d) whether any other minister of religion has declined to solemnise the proposed marriage;
  - (e) the denomination to which the parties belong; special care shall be taken in cases where one or both parties belong to a denomination whose discipline in this matter may differ from that of the Church of Scotland.
4. A minister shall also consider whether there is danger of scandal arising if the re-marriage is solemnised; at the same time, and before refusing to solemnise the re-marriage, the minister shall take into careful consideration the moral and spiritual effect of a refusal on the parties seeking such a marriage.
5. As the determinative factor, a minister shall do all he or she can to be assured that by word and deed there has been sincere repentance where guilt has existed in the past on the part of any divorced person seeking re-marriage. He or she shall also give the most careful instruction, where this is needed, in the nature and requirements of a Christian marriage.
6. A minister shall not be required to solemnise a re-marriage against his or her conscience.
7. Every Presbytery shall appoint certain individuals (who need not be members of the Presbytery concerned) with one of whom ministers in doubt as to the correct course of action may consult if they so desire; in such cases the final decision must rest with the minister who has been asked to officiate.

8. The admission to Communion of persons who have contracted marriage after divorce, and any other matters affecting pastoral care, shall remain the responsibility of the minister and Kirk Session involved.
9. The Acts of Assembly of 1566 and 1576 anent the re-marriage of divorced persons and all other enactments of like tenor and effect are hereby repealed.
10. For the purposes of this Act, the term 'minister' shall be deemed to include 'deacon'.

**XXVII. MINISTERS AND THE CIVIL POWER ACT (ACT XXVII 1959)**

*Edinburgh, 26th May 1959, Session 12.*

Whereas the Act of 19th December 1638 Against the Civill Places and Power of Kirkmen declared “that it is both inexpedient and unlawful in this Kirk for Pastors separate unto the Gospell to brook civill places and offices, as to be Justices of the Peace, sit and decerne in Councell, Session or Exchecker to ryde or vote in Parliament, to be judges or assessors in any civill judicatorie”. Whereas for many years past there have been many cases where ministers have become Justices of the Peace and members of local authorities charged with duties which include those of civil judicatories such as Burgh Courts, and no adverse effect upon the spiritual influence of the Church has followed thereon.

Now therefore the General Assembly with consent of a majority of Presbyteries hereby enact and declare that the Act of 19th December 1638 Against the Civill Places and Power of Kirkmen, and all other Acts of the like tenor and effect are hereby repealed.





**XIX. CONGREGATIONAL CONSTITUTIONS ACT (ACT XIX 1964) (AS AMENDED BY ACT V 2003 AND ACT I 2017)**

*Edinburgh, 22nd May 1964, Session 7.*

The General Assembly enact and ordain as follows:-

**Transition to Model Deed**

1. *Secs 1 to 5 repealed by Act I 2017.*

**Transition to the Unitary Constitution**

6. The Delegation of the General Assembly shall have power to issue to congregations of full status a Unitary Constitution, where either of the following requirements have been satisfied:-
  - (a) The congregation shall have passed a Resolution to adopt the Unitary Constitution at a Congregational Meeting specially called for the purposes by intimation on the two Sundays immediately preceding the meeting, and the Presbytery of the bounds shall have concurred in the said Resolution, or
  - (b) Two or more congregations have agreed to unite or have been united in terms of a Basis of Adjustment which provides that the financial or temporal affairs of the united congregation shall be administered as, or is in accordance with, the said Unitary Constitution.
7. Notwithstanding the terms of the Deed of Unitary Constitution, in cases where the Deed shall in future be issued to a congregation whose financial or temporal affairs immediately prior thereto have been administered by a Deacons' Court consisting wholly or partly of members ordained or commissioned for life or otherwise holding office for life, such members of the former Deacons' Court, if they so wish, shall, without election, become members of the Finance Committee or Property Committee (by whatever name), the choice between these two Committees being made in each case by the Kirk Session, for life or for as long as they wish to remain members thereof, provided always that their names remain on the Communion Roll. This provision shall no longer apply to any individual who resigns from such committee membership in terms of this section.
8.
  - (1) For the avoidance of doubt, the Unitary Constitution states the constitution of existing *quoad omnia* parishes.
  - (2) Any *quoad omnia* Kirk Session may (1) apply direct to the Delegation of the General Assembly for the issue of such a Deed, first informing the Presbytery of its intentions but without requiring the approval of the Presbytery and in any case (2) use the term "Unitary Constitution" to describe the constitution of the congregation.



**XXVIII. ADMISSION OF WOMEN TO THE ELDERSHIP ACT (ACT XXVIII 1966)**

*Edinburgh, 25th May 1966, Session 3.*

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

1. Women members of a congregation shall be eligible for election and admission as elders on the same terms and conditions as men members of a congregation.
2. Act X of 1932 is repealed so far as it is inconsistent with this Act.



**XXV. ADMISSION OF WOMEN TO THE MINISTRY ACT (ACT XXV 1968)**

*Edinburgh, 22nd May 1968, Session 3.*

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

1. Women shall be eligible for ordination to the Holy Ministry of Word and Sacraments on the same terms and conditions as are at present applicable to men.
2. All Acts, Deliverances, Schemes, and Regulations of the General Assembly (including the Standing Orders thereof) shall be so construed that references therein to ministers of the Word and Sacraments shall include women. All express exclusions of women shall cease to have effect (e.g. 1964, XV.). Presbyteries, and Kirk Sessions shall amend their constitutions and regulations (under whatever name they may be designated) accordingly.
3. The Legal Questions Committee shall take all necessary steps to secure that all alterations, consequential upon the foregoing sections of this Act, in acts of Parliament (public and private), Orders in Council, and other documents shall be effected with the least possible delay.



**I. WOMEN READERS ACT (ACT I 1970)**

*Edinburgh, 19th May 1970, Session 2.*

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

Women shall be eligible to be set apart as readers on the same terms and considerations as are at present applicable to men.





**I. RECOGNITION OF MARRIAGE SERVICES ACT (DECLARATORY ACT) (ACT I 1977)  
(AS AMENDED BY ACT II 2004 AND ACT VI 2022)**

*Edinburgh, 24th May 1977, Session 1.*

The General Assembly declare as follows:-

1. The Church of Scotland recognises as sufficient for the solemnisation of marriage any form of ceremony which is in accordance with the terms of Sections 2 and 3 below.
2. Solemnisation of marriage in the Church of Scotland is effected by an ordained minister or deacon in a religious ceremony wherein, before God, and in the presence of the minister or deacon and at least two competent witnesses, the parties covenant together to take each other in marriage as long as they both shall live, and the minister or deacon declares the parties to be married.
3. Before solemnising a marriage a minister or deacon must be assured that the necessary legal requirements have been complied with and that the parties know of no legal impediment to their marriage, and he or she must afterwards ensure that the Marriage Schedule is duly completed.
4. *Deleted by Act VI 2022.*



### **III. PROCLAMATION OF THE BANNS ACT (ACT III 1978)**

*Edinburgh, 20th May 1978, Session 1.*

The General Assembly enact, declare and ordain as follows:-

1. Subject to the terms of Section 2 hereof Act XVI 1932, anent Proclamation of Banns of Marriage, as amended by Act VI 1942, Act III 1959, Act I 1971, and Act I 1975, together with Act II 1957 anent Proclamation of Banns of Marriage, are hereby repealed; and all Schedules and Regulations relevant thereto are hereby rescinded.
2. Notwithstanding the above, any person usually resident in Scotland and requiring proclamation of banns in order to be married furth of Scotland may have banns proclaimed in any parish church within the registration district within which he or she usually resides and the repeal of the Acts above mentioned is without prejudice to the validity of such proclamation.



**VIII. PRESBYTERY OF JERUSALEM ACT (ACT VIII 1979) (AS AMENDED BY ACT IV 2003)**

*Edinburgh, 21st May 1979, Session 3.*

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

1. The Presbytery of Jerusalem shall be an Overseas Presbytery of the Church of Scotland.
2. The membership of the Presbytery shall be in accordance with Act III 2000, so far as applicable.
3.
  - (a) The Presbytery shall exercise such powers and perform such functions as normally belong to Presbyteries in the Church of Scotland, in so far as circumstances permit, and in so far as these are consistent with the powers and functions conferred on the Faith Impact Forum by the General Assembly.
  - (b) The Presbytery shall not have the power to appoint missionaries or local agents, or to terminate their engagements except in cases of discipline nor shall it have any power to determine the duties or spheres of labour of missionaries or other agents, such power being expressly committed to the Faith Impact Forum or other appropriate Mission Committee of the General Assembly.
  - (c) It shall be competent for any member of the Presbytery to dissent and complain to the General Assembly against a judgement of the Presbytery in respect of any matters arising in connection with any causes or questions affecting any of the matters dealt with under 3 (a) hereof. Notice of such Dissent and Complaint, or Appeal, shall be given to the Faith Impact Forum, which shall have a right to be heard in its interests before the Assembly or any Committee thereof, appointed to deal with the subject matter of the Dissent and Complaint, or Appeal.
  - (d) The Faith Impact Forum shall have power to make Regulations with reference to all or any matters affecting the appointment and service of its missionary agents and to alter or modify the same from time to time as it may deem necessary.
4. *Sec 4 repealed by Act IV 2003*
5. The Presbytery shall have the right to elect two Commissioners, one minister and one elder, to the General Assembly, in accordance with the regulations set forth in Schedule A hereto; provided that the General Assembly may amend these regulations without reference to Presbyteries under the Barrier Act.
6. The Presbytery shall not have the right to make returns to Overtures under the Barrier Act, but may receive such Overtures, and all other documents sent down to Presbyteries for discussion and comment, and may transmit comments to the General Assembly.
7. The Presbytery shall have direct access to the General Assembly in the transmission of Overtures.

8. The Presbytery shall be responsible to the General Assembly for the keeping of its permanent record, which shall be sent up to Assembly for examination at the same time and in the same manner as other records.
9. The Presbytery shall not be assessed for the General Purposes Fund nor for the Mission and Aid Fund.
10. The Law and practice of the Church anent Presbyteries shall apply to this Presbytery in so far as consistent with this Act, and in any question of interpretation this Act shall prevail, provided that the Presbytery shall not be bound to perform any Presbyterial function which by reason of the difference between conditions in Israel and conditions in Scotland, is clearly not applicable to it, and in the event of any question arising as to the application of any law of the Church to this Presbytery such questions shall be referred to the General Assembly and their deliverance thereon shall decide the question even if the law in question shall have been enacted by Barrier Act procedure.
11. Nothing in this Act shall affect the relation in which missionaries and ministers of the Church of Scotland stand at present to the Faith Impact Forum, provided always, and it is hereby declared, that a missionary appointed by the Faith Impact Forum shall remain under the jurisdiction and discipline of the Presbytery in matters of life and doctrine.

#### **SCHEDULE A**

Regulations anent election of two Commissioners to the General Assembly.

1. Commissioners shall be elected from the ordained ministers on the roll of the Presbytery and from the elders on the said roll, provided that, if no elder is available within the Presbytery, an elder may be selected from the whole eldership of the Church of Scotland .
2. A notice of the meeting at which Commissioners to the General Assembly are to be elected shall be sent to each member of the Presbytery.
3. The minute recording the appointment of Commissioners shall (a) contain the sederunt of the meeting, (b) bear that the meeting was constituted, (c) state that the notice calling the meeting contained due intimation of the purpose to elect, and (d) be signed by the Moderator and the Clerk.
4. The Commission shall be forwarded, to the Head of the Faith Impact Forum, together with the relative minute, not later than 10th April.
5. The Commission shall be forwarded, duly certified, by the Head of the Faith Impact Forum to the Clerks of the General Assembly, so as to be in the hands of the latter by 24th April. The Commission shall be endorsed by the Clerk of the Presbytery to the effect that the elder named therein is a *bona fide* acting elder.

**V. DECLARATORY ACT AS TO THE WESTMINSTER CONFESSION OF FAITH (ACT V 1986)**

*Edinburgh, 21st May 1986, Session 6.*

The General Assembly declare as follows:-

1. This Church no longer affirms the following contents of the *Westminster Confession of Faith*:  
**Chap. 22, Section 7**  
“Popish monastical vows of perpetual single life, professed poverty and regular obedience are so far from being degrees of higher perfection, that they are superstitious and sinful snares in which no Christian may entangle himself.”  
**Chap. 24, Section 3**  
“... *such as profess the true reformed religion should not marry with Infidels, Papists or other idolators.*”  
**Chap. 25, Section 6**  
“*He (the Pope of Rome) is Antichrist, that Man of Sin and Son of Perdition, that exalteth himself in the Church against Christ, and all that is called God.*”  
**Chap. 29, Section 2**  
“... *so that the Popish Sacrifice of the Mass (as they call it) is most abominably injurious to Christ’s one only Sacrifice, the alone Propitiation for all the sins of the Elect.*”
2. This Church therefore dissociates itself from the above statements and does not require its office-bearers to believe them.





**I. CONGREGATIONS IN UNSATISFACTORY STATE ACT (ACT I 1988) (AS AMENDED BY ACTS XI 1992, VII 1994, VI 1996, IV 2002, II 2003, X 2016 AND I 2019)**

*Edinburgh, 21st May 1988, Session 1.*

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

1. When, in the judgement of a Presbytery, after due enquiry in accordance with the provisions of this Act,
  - (a) a congregation is in an unsatisfactory state, and
  - (b) the unsatisfactory state will continue unless the pastoral tie between minister and congregation is dissolved.

it shall be competent for the Presbytery to dissolve the pastoral tie and declare the charge vacant.

2. A Presbytery may institute proceedings under this Act only after it is satisfied that:
  - (a) there exists a situation in a congregation which significantly and detrimentally affects the peace, well-being or life thereof;
  - (b) all reasonable steps of a pastoral nature have been taken to remedy the situation, and have failed; and
  - (c) the situation requires further action at the instance of the Presbytery.

3. Proceedings shall not be commenced under this Act, or if already commenced shall be sisted, if it is found that grounds exist for action under Act XV 2002 <sup>1</sup> anent Long-term Illness of Ministers in Charge.

<sup>1</sup> At the time when Act IV 2002 was passed, Act X 2000 was still in force; it was later replaced by Act XV 2002.

4. The decision of a Presbytery to institute proceedings under this Act shall be final, and shall be by resolution to appoint a Committee of Inquiry. The terms of such resolution shall include an explicit reference to this Act and shall be recorded in the Minutes of the Presbytery.

5. When a Presbytery has resolved to appoint a Committee of Inquiry it shall proceed immediately to make such appointment. The membership of the said Committee shall not include the Moderator or the Clerk of the Presbytery. It shall not normally include any person who has been involved in the previous steps in terms of sub-section 2(b) above. If the Presbytery should appoint any such person it shall record in the Minutes its reasons for so doing.

6. Notwithstanding the factors, in terms of section 2 above, which have led to the appointment of a Committee of Inquiry, the said Committee shall proceed de novo to make an impartial and thorough inquiry into the state of the congregation, by interviewing all parties who can show, or be shown to have, a legitimate interest, by examining relevant records of the congregation, letters, written submissions, and other documents, and by any other means which, in the opinion of the Committee, will help to establish the facts of the situation. To enable it to carry out its duties the Committee shall have

power to order the production of documents and things of any nature, and to cite the minister, all or any of the elders and other office-bearers and members of the congregation, and any other person who is amenable to the jurisdiction of the Courts of the Church to assist with their inquiries. The failure of any person, duly cited, to appear without reason being given to the Committee for non-appearance shall not prevent the Committee proceeding. If judged appropriate, the Committee may also call a meeting or meetings of the congregation.

7. If, at any time, it appears to the Committee of Inquiry that the situation of the congregation has been remedied, the said Committee shall confer with the Superintendence Committee or its equivalent. If the Committees together agree, they shall report to the Presbytery the fact that the situation of the congregation has been remedied. The joint Report of the Committees shall contain in addition such information as is reasonably required to enable the Presbytery to dispose of the matter. Upon consideration of the joint Report the Presbytery may:

- (a) resolve to depart from the matter and discharge the Committee of Inquiry, or
- (b) continue the matter for further inquiry and report after such period not exceeding one year as the Presbytery shall think fit,

and may, in any case, take such special steps for the pastoral oversight of the congregation as the Presbytery shall think appropriate.

8. Unless the Committee of Inquiry is discharged under section 7 above it shall, when it has completed its inquiry, prepare the FIRST PART of a Report which shall contain:
  - (a) a brief narrative of the way in which the inquiry has been carried out including, if circumstances warrant it, a note of any difficulties encountered in eliciting the facts of the situation;
  - (b) a list of persons interviewed;
  - (c) a list of records, letters, written submissions, and other documents examined;
  - (d) a note of any other sources of evidence; and
  - (e) a numbered list of the facts which the Committee considers to have been established by its inquiries.

9. When the FIRST PART of the Report has been completed, the Committee of Inquiry shall, on the basis of that PART, consider whether;
  - (a) the congregation is in an unsatisfactory state, and
  - (b) the unsatisfactory state will continue unless the pastoral tie between minister and congregation is dissolved.

and shall thereupon prepare the SECOND PART of its Report, stating its conclusions on (a) and (b) above, together with the reasons for such conclusions and, if it so determines, a recommendation as to action by the Presbytery. The Report shall state whether the conclusions and recommendations, if any, were reached unanimously, and should give voting figures for any decision which was not unanimous.

10. When the Report of the Committee, comprising the FIRST PART and the SECOND PART, has been prepared, it shall be lodged with the Clerk of the Presbytery who shall forthwith dispatch by recorded delivery a copy thereof, together with a copy of this Act, to the minister, ordering him, or her, in the name of the Presbytery, to lodge a Response, if so advised, within twenty-eight days of such dispatch. If such a Response is submitted, it shall contain a statement, in articulate numbered paragraphs corresponding to the paragraphs of the Report of the Committee of Inquiry prepared in terms of section 8(e) above, in which the minister shall state whether he or she agrees or disagrees with each statement made by the Committee, and, in the case of disagreement, shall state the minister's contentions in response to those of the Committee. Such Response may, in addition, contain in concise form such other information and comment as the minister wishes to place before the Presbytery.
11. In the event of the minister failing to submit a Response within twenty-eight days in terms of section 10 above, the Clerk shall inform him or her in writing that if he or she does not either:
  - (a) submit a Response within a further fourteen days, or
  - (b) submit a written request for more time to prepare a Response, with the grounds therefor,he or she shall be deemed to have concurred in the statements in the Report in terms of section 8(e) above. In the event of a written request for more time being submitted, the Clerk shall report this to the Presbytery no later than its next ordinary meeting, and the Presbytery shall determine a date by which a Response shall be submitted, which date shall be communicated to the minister with intimation that, as above, failure to submit a Response by that date will be deemed to be concurrence in the statements in the Report.
12. When a Response has been duly submitted, or when the prescribed periods in terms of sections 10 and 11 above have expired without a Response being submitted, the Clerk shall inform the Moderator who shall call a meeting of the Presbytery *pro re nata* to consider and adjudicate upon the issues raised in the Report and Response, if any; and a copy of the Report and the Response, if any, shall be sent to every member of the Presbytery along with the notice calling the meeting. At the same time the minister shall be cited to appear.
13. For the avoidance of doubt it is declared that the members of the Committee of Inquiry shall not be at the bar of the Presbytery at any stage in the proceedings, even if cited and called as witnesses; provided that the Convener, or other member appointed by the Committee, giving in the Report, and the minister, shall speak from the bar and shall be deemed to be parties at the bar throughout the subsequent proceedings.
14. At the meeting of the Presbytery *pro re nata* the procedure shall be as follows:
  - (i) The Report of the Committee of Inquiry and the Response of the minister, if submitted, shall be tabled without discussion.
  - (ii) If the Committee and the minister are in dispute in respect of any matter of fact, the Presbytery shall proceed to hear such relevant evidence, oral and

documentary, as may be presented by the Committee and the minister respectively, and to adjudicate thereon as follows:

- (a) Evidence may be presented by the Convener or other member appointed by the Committee, and by the minister personally or by counsel or solicitor as each shall think fit, and shall be subject to cross-examination, and to questions by the Presbytery.
  - (b) When all evidence has been received, the Presbytery shall hear each party in turn on the issues of fact in dispute, after which parties shall be removed.
  - (c) When parties have been removed the Presbytery shall make findings on the issues of fact in dispute in the light of the evidence before it, and shall record such findings in the Minutes together with a statement of the facts not in dispute, and such findings and statement together shall comprise the Basis of Fact for further procedure.
- (iii) If the Committee and the minister are not in dispute in respect of any matter of fact the Presbytery shall adopt the Committee's statement as the facts in the matter, and shall minute the same as the Basis of Fact for further procedure.
  - (iv) For the purposes of the two preceding sub-sections there shall be a dispute in respect of a matter of fact if and only if the minister has submitted a Response and the dispute arises on the terms of the Report and Response.
  - (v) When the Basis of Fact has been duly minuted, and the parties informed of its terms, the Presbytery shall hear the submissions and argument of the parties. The Convener or other member appointed by the Committee, and the minister, may address the Presbytery personally or by counsel or solicitor as each shall think fit. Thereafter parties shall be removed, and motions shall be called for.
  - (vi) Motions shall in the first instance be directed to resolving the question as to whether or not the congregation is in an unsatisfactory state. In the event of a judgment that the congregation is not in an unsatisfactory state, the case will thereby be concluded.
  - (vii) Motions should thereafter be directed to reaching a final judgement based on the considered opinion of the Presbytery as to whether or not the unsatisfactory state will continue unless the pastoral tie is dissolved. Since an affirmative answer to that question is a precondition of a judgement to dissolve the pastoral tie, in terms of section 1 of this Act, any motion to dissolve the pastoral tie must include an explicit statement to the effect that it is the opinion of the Presbytery that the unsatisfactory state will continue unless the pastoral tie is dissolved; and also, if the Presbytery is of that opinion it shall be bound to proceed to dissolve the pastoral tie. Any other motion must include an explicit statement to the effect that the Presbytery is not of the opinion that the unsatisfactory state will continue unless the pastoral tie is dissolved, and it must also contain a resolution to effect some alternative remedy for the unsatisfactory state, or an alternative course of action.
  - (viii) For the avoidance of doubt it is declared that it shall be competent for the Presbytery to find the state of the congregation unsatisfactory and to dissolve the pastoral tie even if the Report of the Committee of Inquiry contains no conclusion or recommendation to such effect, provided that, in the opinion of the Presbytery, the Basis of Facts warrants a judgement to such effect.

- (ix) The final judgement of the Presbytery shall be recorded in the Minutes, which shall be adjusted and approved by the Presbytery before the conclusion of the meeting.
15. In all proceedings under this Act procedure shall be in accordance with the Standing Orders of the Presbytery and with the normal practice of Courts of the Church, provided that where any of these are inconsistent with the provisions of this Act the provisions of this Act shall prevail, and in particular the following provisions shall apply:
- (a) While no time limits shall be determined beforehand for any speeches, the Presbytery may resolve to require anyone already speaking to conclude within specified time if, in the opinion of the Presbytery, the ends of justice will best be served by such requirement, considering not only that the ends of justice require that parties be adequately heard but also that unduly long meetings, or meetings continued through several adjournments, are not conducive to the ends of justice.
  - (b) The Presbytery shall at the commencement of proceedings under this Act apply to the Legal Questions Committee for the appointment of an Assessor to advise the Presbytery on matters of procedure.
  - (c) The Presbytery shall make such contribution to the cost incurred by the minister in preparing sufficient copies of the Response for all members of the Presbytery, and in circulating the Response, as shall be agreed between the Presbytery and the minister, or, failing such agreement, as shall be fixed by the Legal Questions Committee.
16. When the Presbytery has reached a judgement dissolving the pastoral tie, it shall immediately suspend the minister from office as minister of the charge, but without prejudice to continued payment of stipend and occupancy of the manse, and it shall also immediately appoint an interim Moderator. Such suspension shall continue until the date appointed by the Presbytery for the dissolution of the pastoral tie, or until the case is settled on appeal.
17. Parties have a right to appeal or dissent-and-complain after the final judgement of the Presbytery. The procedure shall, except as herein provided, be as in section 46 of the Discipline Act (Act I 2019). In the event of no appeal or dissent-and-complaint being taken, the judgement of the Presbytery shall become effective on the date specified in terms of section 14(vii) above, and the Presbytery shall report this judgement to the Faith Nurture Forum, which Forum shall, in the event of the pastoral tie being dissolved, make provision for the minister as provided in section 18 of this Act.
18. When a minister's tenure has been terminated in terms of this Act he or she shall be entitled to receive, for the lesser of (i) a period of six months and (ii) until the minister begins another appointment:
- (a) a maintenance allowance of equal to the amount of the prevailing stipend at point 1 of the scale at the date of payment; and
  - (b) the use and occupancy of a manse on the same terms as normally apply to a minister in a charge, or, in the event of no manse being available or of his or her choosing to live in his or her own house, an allowance appropriate to individual needs to be determined in consultation between the minister and the Faith Nurture Forum.

At the end of the six month period, if the minister is still unplaced, the whole situation shall be reviewed by the Presbytery in consultation with him or her and with the Faith Nurture Forum.

19. A judgment dissolving the pastoral tie shall be reported immediately to the Faith Nurture Forum, who shall arrange for a minister from another Presbytery to give pastoral advice, and counsel to the minister, whether or not appeal or dissent and complaint has been taken.
20. (a) All procedure in Presbytery under this Act shall be taken in private, and shall be the subject of a Record Apart, only judgements as above prescribed being recorded in the Minutes.  
(b) In the event of an appeal or dissent-and-complaint the Presbytery Clerk shall furnish copies of the Record Apart to the parties and to the Principal Clerk.
21. Act XXI 1960, is hereby repealed.

**V. CHURCH FINANCE ACT (ACT V 1989) (AS AMENDED BY ACT X 2002)**  
*Edinburgh, 22nd May 1989, Session 4.*

The General Assembly enact, ordain, and declare as follows:-

**I CENTRAL FINANCE**

1. No Council, Committee, Forum, or other body appointed by or subject to the jurisdiction of the General Assembly and which is or may be funded in whole or in part in accordance with the Co-ordinated Budget, as prepared and approved by the authority of the General Assembly, shall have the right to appeal for funds directly to the Congregations of this Church or any of them, and the allocations required from Congregations in accordance with the said Co-ordinated Budget shall be the sole method of raising funds from the said Congregations for the funding of all such Councils, Committees, Forums, or other bodies: provided that in the event of any circumstances arising which, in the opinion of the Stewardship and Finance Committee, necessitates a special appeal for funds to Congregations, the said Committee may in its sole discretion grant permission for such an appeal to be made and state the conditions on which it is to be made.
2. Section 1 above is not to be construed as prohibiting any Council, Committee, Forum, or other body from making appeals for funds from sources other than the Congregations of this Church. The right of the Guild to appeal on behalf of a designated Annual Project in accordance with such arrangements as have been or may be approved by the General Assembly is hereby affirmed.

**II CONGREGATIONAL FINANCE**

3. No Congregation, Kirk Session, Financial Board of any kind or other body or person acting or purporting to act in the name of any of these or on their behalf or for their benefit shall have the right to appeal for Congregational funds outwith the Congregation or Parish concerned, except with the authority in writing of the Presbytery of the bounds; and in the case of any appeal for the erection, alteration or repair of a Church, Hall, Manse or other heritable property, no Presbytery shall grant authority unless such appeal has been approved in writing by the relevant Committee of the Faith Nurture Forum and by the General Trustees, but under declaration that the granting of consents by the said Committee and the General Trustees in any individual case is without prejudice to the right of a Presbytery to decline to grant authority in that case. For the purposes of this Act an appeal contained on a website belonging or pertaining wholly to a single congregation or linkage shall not constitute an appeal outwith the congregation or parish as defined above; upon request from any party the Presbytery shall determine whether any appeal for funds constitutes an exception of this type, subject to a right of appeal or dissent-and-complaint.
4. Where the making of an appeal is duly authorised, the deliverance of the Presbytery granting such authority shall be included in all letters, circulars or other papers issued for the purpose of soliciting contributions.

5. All contributions received in answer to an appeal shall be duly recorded in accounts kept for the purposes of the appeal, audited and exhibited annually to the Presbytery as part of or as an appendix to the Congregational Accounts, until the appeal is concluded.
6. Section 3 above is not to be construed as prohibiting an appeal for funds to persons (not members of the Congregation) residing in the Parish nor as prohibiting applications for grants from public bodies or Trusts or the like.
7. Nothing in this Act is to be construed as prohibiting any Congregation, Kirk Session or Financial Board of any kind from receiving any legacy or unsolicited donation.
8. In respect that all funds received by Congregations of the Church from any source, including by way of the offerings of the people or by legacy or donation, are (unless appropriated in law to a specific purpose) to be applied only for the purposes of the Congregation and of this Church; and, since those responsible for their administration are stewards of the liberality of former as well as present members of this Church, no Kirk Session or Financial Board of any kind or other body or person representing a Congregation may use any such funds for any purpose other than a purpose of the congregation or of this Church and in accordance with the provisions of the constitution of the Congregation concerned.
9. The Act anent Collecting-Books (1931, XXI) and the relative Regulations on the issue of Collecting-Books are hereby repealed.



**XVII. READERSHIP ACT (ACT XVII 1992) (AS AMENDED BY ACT XII 2003, IV 2005, VI 2006, VI 2007, ACT XIV 2012, ACT XII 2014, ACT XIII 2018, ACT V 2019, ACT XVII 2020 AND ACT XV 2022)**

*Edinburgh, 18th May 1992, Session 4.*

The General Assembly enact and ordain as follows:-

**Definition**

A Reader is a person who has been set apart by a Presbytery to an office which qualifies him or her to carry out duties within the Church of Scotland which are principally concerned with the ministry of the Word and the conduct of public worship.

**1. Application and acceptance as a candidate**

- (a) The provisions of sections 2, 4, 5(1), 5(2) and 5(3), 6A and 6B and 7-10 of the Selection and Training for Full-Time Ministry Act (Act X 2004), and (in respect of decisions in terms of (c)(iv) below) the appeals process referred to therein, shall be followed *mutatis mutandis* by any person wishing to apply for recognition as a candidate for the readership.
- (b) An application cannot be accepted from any person less than 18 years old. No upper age limit shall apply to application for acceptance for training.
- (c) A Local Review, established as described in section 5(4) of Act X 2004 *mutatis mutandis*, will arrive at one of the following written determinations:
  - (i) That the applicant is suitable to commence training as a candidate for the readership;
  - (ii) That the applicant should undergo a further period of discernment before a decision in terms of sub-paragraph (i) can be made;
  - (iii) That the applicant is not ready to commence training as a candidate for the readership; or
  - (iv) That the applicant is not suitable to be a candidate for the readership.
- (d) An individual whose application is successful will be known as a candidate for the readership.
- (e) An applicant who is accepted as a candidate for the readership shall, following Local Review, undergo a medical check and a Disclosure Scotland check in the form prescribed by the Forum and may only proceed if these checks are, in the opinion of the Forum, satisfactory. There shall be no appeal against the Forum's decisions on these matters.
- (f) A decision in terms of section 1(c)(iii) or (iv) shall be subject to the right of appeal set out in section 10 of this Act and section 6B of Act X 2004.

**2. Training of Candidates**

- (a) Each candidate must complete the training described in this section within five years from the date on which he or she becomes a candidate. Failure to complete the course on time will normally result in the loss of status as a candidate for the readership. The requirements shall consist of the academic course described in sub-section (b), the conference programme described in sub-section (c), and the placements described in sub-section (d).
  - (b) (i) The academic course shall consist of a Certificate of Higher Education from any institution which may be approved from time to time by the Faith

Nurture Forum. The course and its constituent modules shall be approved by the Forum. Candidates may undertake their course by distance learning where that is offered by the academic institution. An individual may commence the academic course before becoming a candidate, but must complete the course successfully before being set apart as a reader.

- (ii) When a candidate already has relevant training or education, the Faith Nurture Forum shall have power to give credit for it and to prescribe whatever additional training may be necessary. This further training shall be drawn from the courses or modules referred to in paragraph (b)(i) above.
- (c) A conference programme shall be organised and provided by the Faith Nurture Forum for those recognised as candidates in terms of section 1 above. The content of each conference shall be determined by the Forum, and the programme shall include such training in Safeguarding and Child Protection issues as shall from time to time be required by the General Assembly. Attendance at all sessions of all conferences shall be mandatory.
- (d) Each candidate shall, in the course of his or her candidature, complete (to the satisfaction of his or her Presbytery in consultation with the Faith Nurture Forum) two training placements in congregations other than the congregation in which the candidate is a communicant member. The placements shall be chosen and arranged by the Presbytery.
- (e) The Presbytery shall appoint for each candidate a regent, who may be a member of a support group organised locally for the candidate, and who shall be responsible for the Presbytery's pastoral care of the candidate for the duration of his or her course.
- (f) Before completing the course, and during the second training placement, each candidate must pass a Final Preaching Assessment, demonstrating skills in the conduct of worship to the satisfaction of (i) a representative of the Faith Nurture Forum, (ii) a representative of the Presbytery and (iii) the supervisor of that placement. The candidate may be assessed on more than one occasion, if necessary, to fulfil the requirement.
- (g) Upon fulfilment of all the requirements in sub-sections (b)-(d) and (f), the appointee of the Faith Nurture Forum shall report to the Presbytery that the course has been completed and convey the Forum's recommendation to the Presbytery. The Presbytery shall make such further enquiry as it wishes, and shall interview the candidate. It shall decide in terms of one of the following resolutions:
  - (i) That the candidate be set apart as a reader in terms of section 3 below;
  - (ii) That the candidate complete a probationary period as determined by the Presbytery, giving attention to specified aspects of the readership, before a further decision is made in terms of this sub-section; or

- (iii) That the candidate be not set apart.

These decisions shall be subject to the right of appeal set out in section 10.

### 3. **Admission to the Office of Reader**

Persons who have completed the approved course of training shall be admitted to the office of Reader by Presbytery upon giving satisfactory answers to the following questions:-

- (i) Do you believe in one God – Father, Son and Holy Spirit; and do you confess the Lord Jesus Christ as your Lord and Saviour?
- (ii) Do you believe the Word of God, which is contained in the scriptures of the Old and New Testaments, to be the supreme rule of faith and life?
- (iii) Do you believe the fundamental doctrines of the Christian Faith contained in the Confession of Faith of this Church?
- (iv) Do you acknowledge the Presbyterian government of this Church to be agreeable to the Word of God; and do you promise to be subject to this Presbytery, or to any other Presbytery within whose bounds you may reside, and to the General Assembly?
- (v) Do you promise to seek the unity and peace of this Church, to uphold the doctrine, worship, government, and discipline thereof, and to cherish a spirit of love towards all your brothers and sisters in the Lord?
- (vi) Are not zeal for the glory of God, love to the Lord Jesus Christ, and a desire for the salvation of all people, so far as you know your own heart, your great motives and chief inducements to enter into the office of Reader?
- (vii) Do you engage in the strength of the Lord Jesus Christ to live a godly and circumspect life; and faithfully, diligently, and cheerfully to discharge the duties of Reader, seeking in all things the advancement of the Kingdom of God?

After these questions have been answered satisfactorily, the Formula, which is the same as for ministers, shall be signed and the person shall be admitted to the office of Reader.

### 4. **Duties of Readers**

It shall be competent for a Reader set apart in the terms of this Act to

- (a) provide occasional pulpit supply in terms of Act II, 2000
- (b) be attached to a charge within the bound of the Presbytery. In such an attachment the Reader may be invited to
  - conduct services within the charge subject to the approval of the Parish Minister or Interim Moderator and the Presbytery after consultation with the Kirk Session
  - act as chaplain to residential accommodation or hospital with the approval of the Parish Minister or Interim Moderator and the Presbytery and where appropriate the Faith Nurture Forum
  - conduct funeral services with the approval of the Parish Minister or Interim Moderator and the consent of the family concerned
  - conduct school assemblies at the invitation of the appropriate school authority and with the concurrence of the School Chaplain, or Parish Minister or Interim Moderator, where there is no Chaplain

- perform any other duty which the Parish Minister or Interim Moderator may assign to the Reader which is principally concerned with the conduct of worship but which may include related pastoral work.
- (c) Any arrangement made under Section 4 (b) of this Act shall be for an initial period of no more than three years and shall be reviewed annually by the Presbytery.
- (d) A Reader set apart in the terms of any Act of the General Assembly prior to this Act may normally only provide occasional pulpit supply. Nevertheless, a Presbytery may, after consultation and agreement with interested parties and with concurrence of the Faith Nurture Forum permit such a Reader to carry out duties under section 4 (b) of this Act.
- (e) Any Reader of the Church of Scotland is authorised to conduct public worship anywhere within the church.

#### 5. **Remuneration**

- (a) A Reader who provides occasional pulpit supply shall be entitled to the appropriate fee as laid down by the regulations of the General Assembly.
- (b) A Reader who is attached to a congregation, or to linked congregations, shall be paid such fees as are agreed by the Presbytery in consultation with the Kirk Session or Kirk Sessions and the Faith Nurture Forum. Such fees shall be reviewed and agreed annually by Presbytery.
- (c) A Reader who is attached to a congregation, or to linked congregations, shall be paid travelling expenses at the rate approved by the General Assembly for pulpit supply.
- (d) A Reader who acts as a chaplain shall be paid such fees and expenses, if any, as may be agreed by the Presbytery and the body making the appointment. Any such arrangement shall be made prior to the Presbytery agreeing to the appointment.
- (e) A Reader performing any other duty approved by Presbytery for which fees, expenses, or other remuneration are not paid shall be reimbursed by the Presbytery for out of pocket expenses and for travelling expenses at the rate approved by the General Assembly for pulpit supply.

#### 6. **Supervision**

- (a) Each Presbytery shall maintain and revise annually a Roll of Readers under its supervision.
- (b) A Reader shall have the choice of being on the Roll of Readers of the Presbytery in which they reside or the one in which they have their congregational membership. A Reader shall only be on the Roll of one Presbytery at a time. A Reader may choose to remove their name from the Roll of Readers at any time.
- (c) Presbyteries shall send the names and contact details of those whom it admits to the office of Reader, and those whom it removes from its Roll of Readers, to the Faith Nurture Forum and the Editor of the Year Book no later than 30th June in each year.
- (d) On leaving the Roll of Readers of one Presbytery, and seeking to be transferred to the supervision of another Presbytery, a Reader shall, on request to the Presbytery Clerk, receive a certificate of status, valid for a period of one year. He or she may lodge this certificate with the Clerk of the Presbytery in which they wish to be enrolled. Once enrolled by the new Presbytery, the Reader's name

- shall be added to the Roll of Readers of the latter Presbytery, whose Clerk shall notify the Faith Nurture Forum and the Editor of the Year Book.
- (e) Presbytery shall invite all Readers on its Roll, giving one month's notice, to appear annually at a Presbytery meeting in recognition of their ministry. All Readers on a Presbytery's Roll shall be invited to be corresponding members of that Presbytery.
  - (f) A Reader shall be advised by Presbytery that they risk being removed from its Roll of Readers if they do not, without good cause, appear before Presbytery as referred to in subsection 6(e) above. In the event of a Reader not attending Presbytery without good cause for two consecutive years, they should be invited to engage in a supportive conversation to ascertain reasons. In the event that this does not result in a positive outcome within 6 months, the Reader will be removed from the Roll and advised accordingly.
  - (g) Presbytery shall undertake the regular review of each Reader, not less than once every two years, and shall support their continuing development in the Readership. Presbyteries shall consult with Faith Nurture Forum on the resourcing of the above.
  - (h) Presbytery, shall, before making any appointment of a Reader in the terms of section 4(b) of this Act, satisfy itself that the Reader is an enrolled Reader in terms of this Act.

**7. Transfer to the Ministry of Word and Sacrament**

*This section was deleted by Act V 2019.*

**8. Admission of Readers from other Churches**

Readers, and individuals with equivalent status in other Churches, may be admitted to the readership of the Church of Scotland upon becoming communicant members of this Church, and the following procedure shall be followed:

- (a) The person wishing to transfer ("the applicant") shall intimate to the Presbytery in which he or she resides, and to the Faith Nurture Forum, his or her intention to apply for recognition as a reader.
- (b) The Faith Nurture Forum shall determine whether the applicant's status is recognised by the Church of Scotland, and may use only that ground to refuse to accept an application. The Faith Nurture Forum's decision on this is final.
- (c) The Faith Nurture Forum shall specify in each case what written materials are required in support of the application: these shall always include an application form; a criminal record check and declaration; and references (including one from the minister of the Church of Scotland congregation of which the applicant is a member, and one from the previous denomination confirming status and whether the applicant is in good standing).
- (d) The Faith Nurture Forum shall establish an Assessment Panel and that Panel shall carry out an assessment in the form of (i) an interview with a psychologist and (ii) an interview with two national assessors.
- (e) A report from the Panel shall be sent to the Faith Nurture Forum, and shall contain recommendations relating to approval of the application and any training requirements to be imposed. The Faith Nurture Forum shall make a final determination of the training requirements that shall be imposed, and convey that determination and its overall recommendation to the Presbytery and to the applicant.

- (f) The Presbytery shall resolve whether to admit the applicant to the status of reader in the Church of Scotland, adopting without amendment the training requirements determined by the Faith Nurture Forum. The Presbytery shall arrange for a service of admission of the reader as soon as any requirements have been completed to the satisfaction of the Faith Nurture Forum.
- (g) These decisions shall be subject to the right of appeal set out in section 10 of this Act and section 6B of Act X 2004.

9. **Repeal**

Act XXVIII 1974 and Act XIV 1978 are hereby repealed.

10. **Appeals**

An appeal in terms of section 1, 2, 6 or 8 of this Act shall be heard by the Ministries Appeal Panel in terms of the Ministries Appeal Panel Act (Act VI 2007) and may be taken on one or more of the following grounds: (a) that there were irregularities in the process, (b) that the final decision was influenced by incorrect material fact, or (c) that the process was conducted contrary to the principles of natural justice. Notification of the intention to appeal shall be sent to the Faith Nurture Forum and to the Principal Clerk within 14 days of the date upon which the decision was intimated to the applicant or candidate, as the case may be (“the appellant”). At the Appeal Hearing the appellant shall be entitled to appear either online or in person, as determined by the Faith Nurture Forum, and to address the Panel. The appellant may be accompanied by a companion, who shall not be entitled to speak to the Panel, but who may confer with the appellant.

**II. MODEL DEEDS OF CONSTITUTION ACT (ACT II 1994) (AS AMENDED BY ACTS VIII 2008, IX 2012, V 2016 AND III 2017)**

*Edinburgh, 21st May 1994, Session 1.*

The General Assembly enact and ordain as follows:-

1. The Model Deed of Constitution approved and adopted by the General Assembly on 20th May 1989 is hereby amended to the extent included in the amended Model Deed of Constitution annexed hereto.
2. The Model Deed of Constitution as so amended (hereinafter referred to as “the amended Model Deed”) is hereby approved and adopted and the forms of Model Deed of Constitution heretofore in use shall not hereafter be issued by the Delegation of Assembly.
3. The Delegation of Assembly is authorised and empowered to execute and issue the amended Model Deed (subject to such minor adjustments or alterations as the Delegation may consider necessary or expedient to make thereon in particular cases) to all Congregations to whom the Model Deed of Constitution shall fall to be issued after the passing of this Act, and when so issuing the amended Model Deed the Delegation shall, at the same time, issue a copy of the Regulations anent Congregational Finance approved by the General Assembly from time to time.
4. All Model Deeds of Constitution which have been issued to Congregations prior to the passing of this Act shall, as from 1st December 1994, be amended to the effect that Articles First to Nineteenth inclusive of the amended Model Deed shall supersede and be substituted for Articles First to Twentieth inclusive of the existing Model Deeds; but without prejudice to anything done or any proceedings taken under the latter Articles prior to 1st December 1994.
5. The Delegation of Assembly shall, as soon as practicable, and in any event not later than 30th September 1994, send a copy of this Act and of the amended Model Deed to each Congregation whose temporal affairs are, at the passing of this Act, administered by a Congregational Board under the Model Deed of Constitution.

**ANNEXATION**

**DEED OF CONSTITUTION**

**OF**

.....

**IN THE PRESBYTERY OF .....**

**Constitution of Congregational Board**

*First*, The control of the financial and other temporal affairs of the congregation shall (subject as hereinafter mentioned, or to any Regulations or directions which may hereafter be enacted by the General Assembly) be vested in the Congregational Board (hereinafter referred to as “the Board”), which shall consist of the minister or ministers of the congregation, any associate minister, assistant minister, deacon or deaconess appointed to serve with the congregation, the elders, and a certain number of Communicants of eighteen years of age or over to be elected by the congregation as hereinafter provided. The number so to be elected shall be determined by the congregation, but in no case (and subject as hereinafter mentioned) shall it exceed the number of elders of the congregation as at the date of such election.

In any case where the number of elders is less than six and the Presbytery is satisfied that there is no immediate prospect of that number being augmented, the Presbytery may permit that a number of Communicants in excess of the number of elders be elected to the Board, subject, however, in such cases to the total number of members of the Board other than elders not exceeding six. The Presbytery shall, subject as aforesaid, decide the number to be so elected and shall report each decision to the Delegation of the General Assembly.

The minister or ministers of the congregation and any associate minister, assistant minister, deacon or deaconess appointed to serve with the congregation shall not have a vote except in the event of being chairman and having a casting vote in terms of Article Fifth hereof. Any probationer minister serving with the congregation shall not be a member of the Board, but shall be entitled to be in attendance at its meetings. It is hereby declared that for the purposes of charity law, the members of the Board (except those without voting rights) shall, together with the minister or ministers of the Congregation and those members of the Session who are not members of the Board, comprise the charity trustees.

### **Election of Board**

*Second*, Not later than the 30<sup>th</sup> day of June in each year, a meeting of all those whose names are on the Communion Roll of the congregation shall be called by intimation made from the Pulpit on the two Sundays immediately preceding the meeting. The said meeting (which shall be designated the Stated Annual Meeting of the congregation) shall be held in the Church or Church Hall or elsewhere as may be intimated (the Moderator or Interim Moderator of the Kirk Session, whom failing a member of the Presbytery specially authorised by him or her for the purpose, whom failing some person to be elected by those present at the meeting, presiding) on a date to be fixed by the Kirk Session in the case of the first such meeting and subsequently by the Board, for the purpose of electing certain of their number to act along with the minister and the elders on the Board in administering the financial and other temporal affairs of the congregation. In the event of any of such meetings not being held within the said appointed times, the Presbytery may, on application by the Kirk Session to that effect, direct such meeting to be called and held at any time thereafter during that year. One-third of the members of the Board so elected shall retire, annually, but they shall be severally eligible for re-election.\* The order of retirement of such one-third of the member shall be fixed by the Board.

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\* Deacons for life who have been members of a Deacons’ Court immediately prior to the adoption of the Model Deed are in a special position – See Note appended to the Deed of Constitution.



### **Power to reduce Membership of Board**

*Third*, Notwithstanding the foregoing, it shall be in the power of the congregation by a resolution passed by not less than two-thirds of the members thereof present at a meeting of the congregation (whether the Stated Annual General Meeting or not), of which due notice of the intention to propose such resolution has been given, to resolve that the number of elders on the Board should be reduced to a number specified in said resolution. The reduced number of elders shall be not less than five when the number of members on the Communion Roll does not exceed 200; shall be not less than eight when the number of members of the Communion Roll exceeds 200 but does not exceed 400, and shall be not less than twelve when the number of members on the Communion Roll exceeds 400. In the event of such a resolution being passed (a) the elders who are to serve on the Board shall be elected by the Kirk Session and shall be members of the Board for such period as the Kirk Session may decide, and the Kirk Session shall fill any vacancy that occurs; (b) the number of members of the Board elected by the congregation shall not exceed the number of elders specified in the resolution. If at the time such resolution is passed the number of members of the Board elected by the congregation should exceed the reduced number of elders, the members elected by the congregation may decide among themselves by agreement or failing that by ballot or otherwise as the majority may wish which of them should demit office so as not to exceed the specified number of elders.

It shall be competent for the congregation at intervals of not less than one year after the passing of a resolution as aforesaid to review the matter and by a resolution passed by not less than two-thirds of the members thereof present at a meeting of which due notice of the intention to propose such a resolution has been given to rescind the resolution referred to in the preceding paragraph or to amend it by increasing or reducing the number of elders to serve on the Board, provided that the minimum number shall be as before stated. In the event of the resolution referred to in the preceding paragraph being rescinded, all the elders shall thereupon become members of the Board and the congregation shall have power to elect additional members of the Board up to the total number of elders. In the event of the number of elders, however, being increased but still being less than the total number of elders on the Kirk Session, the Kirk Session shall elect additional members to serve on the Board from their own number as before provided, and the congregation shall have power to elect additional members up to the total number of elders serving on the Board. In the event of the number of elders being further reduced by said amending resolution, the Kirk Session shall decide which of the elders are to serve on the Board, and the members of the Board elected by the congregation shall decide by agreement or failing that by ballot or otherwise as the majority may wish, which of them should demit office so as to reduce their number to a number not exceeding the number of elders on the Board.

### **Filling of Vacancies**

*Fourth*, In the event of any member of the Board who has been elected by the congregation dying or resigning, or becoming incapacitated to act, or having his or her name removed from the Communion Roll of the congregation, or being suspended from Communion during the currency of his or her term of office, the Board may appoint a duly qualified person to fill the vacancy, and the person thus appointed shall hold office for the remainder of the period for which such predecessor was elected, subject to confirmation at the next Stated Annual Meeting of the congregation.

### **Quorum and Chairman**

*Fifth*, So soon as the Board has been constituted, three shall be a quorum where the number of the Board does not exceed nine, and five shall be a quorum where the number exceeds nine and does not exceed twenty. Where it exceeds twenty, seven shall be a quorum. The minister or ministers of the congregation (or the Interim Moderator of the Kirk Session during a vacancy) shall be *ex officiiis* the Chairman of the Board, and in the event of their declining to accept office, the Board shall elect one of their own number as Chairman for the year. If the Chairman (either *ex officiiis* or elected) shall be absent from any meeting, the members of the Board present shall elect one of their own number as Chairman for that meeting. The Chairman shall have a casting vote only.

Where there is more than one minister of the congregation, each such minister shall, subject to any agreement between or among themselves, be Chairman of the Board at successive meetings in rotation.

### **Appointment of Officials of Board**

*Sixth*, It shall be the duty of the Board at their first meeting to appoint a Clerk and a Treasurer, who may or may not be of their own number, and both offices may be held by the same person. The Treasurer if holding only that office need not be a member of the congregation. The person or persons so appointed shall hold office during the pleasure of the Board, but in any event shall not hold office longer than three years unless reappointed by the Board, which reappointment may be for a period not exceeding three years but may be renewed thereafter for periods not exceeding three years at a time.

### **Minutes and Bank Account(s)**

*Seventh*, It shall be the duty of the Clerk to keep regular Minutes of the proceedings of the Board, and also of the proceedings at the Stated Annual Meeting of the congregation, and to maintain these in a permanent Record, in which each Minute, when approved, shall be signed by the Chairman and the Clerk.

It shall be the duty of the Treasurer to keep one or more separate bank accounts in the name of the Congregation. The Treasurer and up to four members may be authorised by the Board to act as signatories of all cheques drawn thereon. Such cheques shall be signed by any two of the said persons; provided that it is shall further be competent for the Board from time to time to resolve that cheques drawn for sums less than a specified amount may be signed by any one of the said persons alone.

### **Provision of Income**

*Eighth*, It shall be the duty of the Board to create and maintain among the members of the congregation a commitment to the provision, by regular giving, of sufficient income to meet the cost of the whole financial and other temporal affairs of the congregation and to take all necessary and appropriate measures to that end.

### **Accounting records**

*Ninth*, The Treasurer of the Board shall keep such detailed accounting records of the income and expenditure and of the assets and liabilities of the congregation as shall be necessary for the preparation and audit of the Annual Accounts of the congregation in accordance with Article Thirteenth hereof.

### **Maintenance of Properties**

*Tenth*, It shall be the duty of the Board to maintain the fabric of all heritable properties vested in the Church of Scotland General Trustees and/or belonging to or held for the congregation in proper order and repair and fully insured against loss or damage by fire and also against loss or damage by such other risks or perils as is appropriate, such insurances to be effected in the name of the General Trustees insofar as the subjects insured are vested in them.

No extraordinary repairs or improvements on the heritable property shall be undertaken, and no material additions shall be made thereto or to the furnishings of the Church or Church Hall, until sufficient funds shall have been raised or assured for the purpose without encroaching upon the Ordinary Income of the Congregation.

### **Application of Funds and Assets**

*Eleventh*, The Board shall apply the whole funds and assets of any description and under its control in any way exclusively for the purpose of the Congregation and/or the Church of Scotland, unless such funds or assets are otherwise appropriated in law to a specific purpose, and in accordance with all the relevant Acts, Regulations and Deliverances approved by the General Assembly.

### **Power to borrow money**

*Twelfth*, The Board shall have power to borrow money for the purpose of implementing its duties and obligations but that subject to (*One*) the Board being satisfied that sufficient funds are available or are assured for the purpose of repaying the money borrowed and (*Two*) the approval of Presbytery.

### **Accounts of the Congregation and Matters connected therewith**

*Thirteenth*, The Board, acting with the Session, shall ensure that the provisions of the Congregational Finance Regulations (Regulations II 2016) as amended by the General Assembly from time to time are fully complied with. In particular, the Board and Session shall ensure that the Congregational Accounts are received by the Congregation at its Annual Meeting, such Meeting to be held not later than the 30th day of June following the financial year-end date.

### **Collections and Funds for other Charitable Purposes**

*Fourteenth*, It shall be the responsibility of the Board to afford the congregation convenient opportunities for contributing to any objects for which the General Assembly shall have

enjoined special collections and the Board shall also have power to make such collections as may be deemed necessary for the needs of the poor or other religious or charitable purposes. Income received and disbursed or funds held or administered for such objects or purposes, whether originating in such collections or otherwise, shall be shown separately in the Accounts, required to be kept or made up in terms of Article Thirteenth hereof.

### **Appointment of Church Officials**

*Fifteenth*, The Kirk Session shall appoint the Church Officer, the Choirmaster and the Organist or Precentor and any other like officials and shall define their duties. Such officials shall each and all be subject to the direction of the Minister as regards the execution of their duties. The Board shall enter into contracts of employment, which shall incorporate *inter alia* the foregoing conditions, with all such officials and shall determine their salaries. The Kirk Session shall have power, after consultation with the Board, to direct the Board to suspend or terminate the appointments of all or any of the said officials, all in accordance with the terms of the relevant contracts.

### **Existing functions of Minister and Kirk Session reserved**

*Sixteenth*, Nothing herein contained shall interfere with the functions assigned to the minister and to the Kirk Session respectively by common law of the Church of Scotland or by any Acts of the General Assembly applicable thereto.

### **Powers of Presbytery where Board disregard terms of Constitution**

*Seventeenth*, In the event of the Presbytery finding that the Board constituted in terms hereof, or a majority of its members, persist or shall have persisted in disregarding the terms of this Constitution after their attention has been called to the matter, the Presbytery may remove from the Board those who have been guilty of such contumacy, and declare them ineligible for reappointment for a period of not less than three years, and shall thereafter take such steps as they may deem proper to fill the vacancies thus occasioned, with power to the Presbytery, if that Court should itself find it necessary or expedient to do so, to make appointments to the Board.

### **Interpretation**

*Eighteenth*, If any question shall arise with reference to the election of the Board, or as to the interpretation of any Article of this Constitution or as to the legality of any particular exercise of the powers herein contained, it shall be competent for any person or body interested to apply by Petition to the Presbytery to adjudicate upon the matter, and the judgement of the Presbytery upon such matter, or upon any question arising in connection with the annual audit provided for in Article *Thirteenth* hereof shall be final, subject only to appeal against the decision of the Presbytery to the Appeals Committee of the Commission of Assembly in accordance with the Appeals Act (Act I 2014).

### **Powers reserved to General Assembly**

*Nineteenth*, It shall be in the power of the General Assembly at any time, or from time to time, to alter, revoke, amend, or modify this Deed of Constitution, in whole or in part, or to substitute a new Model Deed of Constitution for this Deed of Constitution, subject always to such conditions and provisions relative thereto as the General Assembly shall determine; provided that nothing shall thereby be done to require that the titles of the heritable properties of the congregation be transferred from the existing Trustees to any other body of Trustees.

Given under our hands this            day of 20            , and signed and Delivered by us, as duly authorised by the General Assembly of the Church of Scotland, and as a Quorum of the Delegation appointed by the said General Assembly for, *inter alia*, that purpose.

*Note*

*It is enacted by Act XIX of the General Assembly of 1964, section 3, as follows:*

*Notwithstanding the terms of the Model Deed of Constitution, in cases where the Model Deed shall in future be issued to a congregation whose financial or temporal affairs immediately prior thereto have been administered by a Deacons' Court, consisting wholly or partly of Members ordained or commissioned for life or otherwise holding office for life, such members of the former Deacons' Court, if they so wish, shall, without election, become members of the Congregational Board for life or for as long as they wish to remain members thereof, provided always that their names remain on the Communion Roll. While any such persons are members of the Congregational Board the number of members elected to the Board by the congregation shall be reduced accordingly, and the provisions in the Model Deed of Constitution for the retiral of members by rotation shall apply only to elected members. Any life member of the Congregational Board who ceases to be a member of the Board during his or her lifetime owing to resignation or some other cause, shall if subsequently elected to the Board be an ordinary member thereof.*



**III. CONGREGATIONAL MEETINGS (RECEIPT OF ACCOUNTS) ACT (ACT III 1994)  
(AS AMENDED BY ACTS VIII 2008 AND VI 2016)**

*Edinburgh, 21st May 1994, Session I*

Whereas the General Assembly have laid down a requirement, in terms of their Regulations anent Congregational Finance, that, after the Trustees' Annual Report and Accounts of the Congregation have been approved by the Trustees of the Congregation they shall be submitted by the Trustees to the Congregation at the stated annual meeting, or equivalent Congregational meeting in the case of Congregations not having the Model Deed of Constitution; and whereas the forms of Congregational Constitution in use in the Church of Scotland, in some cases, make no provision for the holding of such a meeting or equivalent meeting;

Therefore the General Assembly enact and declare as follows:-

1. This Act shall apply in the case of each Congregation of the Church whose Constitution makes no provision for the holding of a stated annual meeting, or equivalent Congregational meeting, at which the annual Accounts of the Congregation ("the Accounts") shall be submitted.

2. (1) In this Act "the Financial Board" means the body having the control of the financial and other temporal affairs of a Congregation.

(2) On a date to be determined by the Financial Board, but not later than the 30<sup>th</sup> day of June, in each year a Meeting ("the annual Meeting") of all those whose names are on the Communion Roll of the Congregation shall be called by intimation made from the pulpit on a Sunday giving at least one week's notice of the meeting, for the purpose of receiving the submission by the Financial Board of the Accounts.

(3) The annual Meeting shall be held in the Church or Church Hall or elsewhere as may be intimated.

(4) The Moderator or Interim Moderator of the Kirk Session, whom failing, a member of the Presbytery specially authorised by him or her for the purpose, whom failing some other person to be elected by those present at the Meeting, shall preside.

(5) It shall be the duty of the Clerk to the Financial Board to keep regular Minutes of the proceedings of the annual Meeting and to maintain these in a permanent Record in which each Minute, when approved, shall be signed by the Chairman and the Clerk.

3. In the event of the annual Meeting not being held within the said appointed time, the Presbytery may, upon application by the Financial Board to that effect, direct the Meeting to be called and held at any time thereafter during that year.





## **VOWS OF CHURCH MEMBERSHIP ACT (ACT XII 1996)**

*Edinburgh, 22nd May 1996, Session 5.*

The General Assembly enact and ordain that the following questions and responses are authorised for use in the services of worship incorporating Public Profession of Faith and Confirmation.

### **The Questions**

*Earlier in the service the minister addresses the candidates, recalling their baptism:*

Do you believe the Christian faith  
into which we are baptised?

*The candidates say together:*

**I do**

*The minister then invites the congregation to stand and with the candidates to affirm the faith in the words of the Apostles' Creed or other statement of faith.*

.....

*After the prayer of confirmation, the minister addresses the candidates in such words as:*

You have professed with us your faith in one God, Father, Son and Holy Spirit.  
In your baptism God brought you into the household of faith, and in goodness and mercy has shepherded you to this day.  
We ask you now to pledge yourself to a life of Christian discipleship:  
Do you promise to follow Jesus Christ in your daily life?

**With God's help**

**I will seek to follow Christ,  
and in listening for God's Word,  
in the breaking of bread, and prayer,  
to grow ever closer to him as the years pass.**

Do you promise to be a faithful member of the Christian community?

**With God's help**

**I will share in the worship and service of the church,  
and in this I will give generously  
of what I am and what I have.**

Do you promise to take your part in God's mission to the world?

**With God's help**

**I will witness to Christ  
wherever I find myself  
and putting my trust and hope in him  
I will seek justice and peace  
and the renewing of all life according to God's promise.**

*[Note: The responses may be put as questions by the Minister – 'Do you promise, with God's help ...?' – the candidate answering 'With God's help I will'.]*

*The minister then gives a charge to the congregation in such words as these:*

I charge you,  
the people of this congregation,  
to love, encourage and support  
these our brothers and sisters in faith,  
that they may continue to grow  
in the grace of the Lord Jesus Christ  
and the knowledge and love of God.

*The congregation responds:*

**With God's help  
we will live out our baptism  
as a loving community in Christ:  
nurturing one another in faith,  
upholding one another in prayer,  
and encouraging one another in service.**

**VI. COMMISSION OF ASSEMBLY ACT (ACT VI 1997) (AS AMENDED BY ACTS VII 2003, II 2005, XIII 2006, VI 2007, III 2009, II 2013, VIII 2020 AND X 2022)**

*Edinburgh, 17th May 1997, Session I.*

*(This Act is to be construed in conformity with Act VII 2003)*

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

1. As from the date of this Act the General Assembly shall, at their closing session each year, appoint a Commission of Assembly, hereinafter referred to as “the Commission”, as herein provided, and each Commission shall continue in office until the next Commission is appointed.

**Membership**

2. The membership of the Commission shall be:

- (a) one tenth of the ministers and elders commissioned by Presbyteries to the General Assembly in that year, such Commissioners to be designated by the appointing Presbyteries in accordance with the rules set out in Schedule to the Appeals Act (Act I 2014).
- (b) one in ten or part of ten of the members of the Diaconate commissioned by Presbyteries to the General Assembly in that year, such members to be selected at random by the Clerks of Assembly.
- (c) members *ex officio*s of the General Assembly appointing the Commission, with the exception of the Moderator of the previous General Assembly, all of whom shall hold the same offices in the Commission as they did in the General Assembly.

Where a minister or elder designated under section (a) is unable to attend a meeting of the Commission due to ill-health or subsequent decease, or has, after the date of appointment, been administratively or judicially suspended or has demitted status, the Presbytery in question may appoint a substitute and shall provide to the Clerks of Assembly, at least seven days in advance of the date of the meeting of the Commission, the name and other required details of the substitute appointee. Substitutions shall not be permitted in any other circumstances. A minister shall be substituted for a minister and an elder for an elder. Substitutes need not have been Commissioners at the General Assembly which appointed the Commission.

**Quorum**

3. The quorum of the Commission shall be one-third of its total membership, and of this quorum at least one-third must be ministers and at least one-third must be elders.

**Meetings**

4. (1) The Legal Questions Committee shall, if instructed by the General Assembly, and may at its sole discretion, on its own initiative, or on receipt of a request from any court of the Church or Committee of the General Assembly, or on receipt of a requisition signed by a quorum of the Commission, call a meeting or meetings of the Commission at such time or times as shall, in the opinion of the Committee, be justified by the proposed business, provided that meetings to hear cases which must be heard by the Commission in terms of Sub-section

5(d) below shall be called by the Principal Clerk in consultation with the Convener of the Procedure Committee, and should, as far as possible, be held in the months of October, February and May.

(2) Meetings of the Commission may be held in-person, online or in hybrid form, i.e. with some members present in-person and others simultaneously present online. Each of in-person, online or in hybrid form is hereinafter referred to as a "format". The Legal Questions Committee shall in calling a meeting of the Commission decide in which format the Commission shall meet.

### **Powers**

5. (1) The following powers are hereby delegated to the Commission, and this delegation to the Commission constituted in accordance with this Act is declared to be consistent with the law and practice of the Church hitherto and in accordance with the Articles Declaratory of the Constitution of the Church in Matters Spiritual as hereby interpreted by the Church:-

- (a) in the absence of the Moderator from any meeting, to choose their own Moderator from their own number for that meeting;
- (b) to dispose of any matter referred to them by or in view of any Act, order or deliverance of the General Assembly;
- (c) to dispose of any matter affecting the interests of the Church at home and abroad when the Church would be adversely affected by postponing consideration until the time of the next General Assembly;
- (d) to hear and dispose finally of:
  - (i) all appeals and dissents and complaints, with the exception of those delegated to the Judicial Commission but including those hitherto delegated to the Property Commission, and with the further exception of those delegated to the Ministries Appeals Panel in terms of Act VI 2007;
  - (ii) all references in terms of Act VII 2003;
  - (iii) all petitions which seek review of judgements of Presbyteries on the grounds that the Petitioners could not have come by appeal or dissent and complaint or have been obstructed in so doing by the Presbytery concerned; and the Legal Questions Committee shall for each such case appoint an Investigating Committee of not less than three and not more than five members to ascertain the facts of the case before the Commission is called to deal with it, and to report to the Commission; and it is expressly declared that the General Assembly themselves shall not hear or dispose of such cases nor shall the judgements of the Commission of Assembly thereon be subject to review by the General Assembly; provided that any case in which, in the opinion of the Commission, an important issue of principle is at stake may be referred by the Commission to the General Assembly;
- (e) to hear and dispose finally of cases other than those in sub-section (d) above, including cases in which the General Assembly are the court of first instance, but excluding petitions for admission and re-admission of ministers; provided that any case in which, in the opinion of the Commission, an important issue of principle is at stake may be referred by the Commission to the General Assembly;
- (f) to appoint representatives on behalf of the General Assembly where such appointments are required before the next General Assembly;
- (g) to appoint a representative or representatives to present any matter referred by the Commission to the General Assembly;
- (h) having received the Report of the Assembly Business Committee, to decide on the

date, meeting place and format of the next General Assembly, in circumstances where it subsequently becomes apparent that the date, meeting place and/or format specified by one Assembly for the next Assembly should be reconsidered.

(2) The Clerks of the General Assembly shall act as Clerks to the Commission of Assembly, though not members thereof, but the duties may be carried out by one of them. If neither of them is present, the Commission of Assembly shall appoint a substitute, whether or not a member thereof, to act as Clerk of the Commission during the sittings thereof, and the oath *de fidei* shall be administered to him or her and recorded.

*Note: With effect from 18 May 2013, the provisions of section 5 should be interpreted subject to the provisions of the Appeals Act (Act I 2014).*

### **Procedure**

6. The Principal Clerk shall issue notices calling each meeting to each member of the Commission at least fourteen days before the meeting, such notices to contain intimation of the item or items of business and to be accompanied by all relevant papers.

7. When the meeting has been constituted, the Commission shall consider whether or not to proceed with any or all of the items of business, provided that this option shall not apply to matters referred by the General Assembly in terms of Sub-section 5(b) nor to cases in terms of Sub-section 5(d); and it shall be competent for the meeting to add items of which notice has not been given, provided that the outcome will not be prejudiced by the lack of notice; and the agreement at this stage to proceed with any item shall be without prejudice to consideration of the question of competence when the item is dealt with.

8. (1) Procedure shall be in accordance with the Standing Orders of the General Assembly so far as applicable and consistent with this Act.

(2) For the avoidance of doubt, cases shall be subject to the scrutiny of the Committee on Overtures and Cases in relation to questions of competency and relevancy.

(a) The Committee may produce a report for inclusion in the papers distributed to Commission members and to parties, and make interim recommendations on process to parties and to the Investigating Committee.

(b) In the event of the Committee transmitting the case without qualification, it shall not be necessary for a written report to be prepared.

(c) Any report by the Committee shall be debated by the Commission of Assembly at the outset of the case, and parties given an opportunity to be heard in the course of such debate.

### **Relation to Legislation**

9. The Commission 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, save as specified in section 5(1)(h), to legislate.

10. The decisions of the Commission being final, there shall be no right of appeal against them.

11. Subject to section 5(1)(h), the Commission shall not have power to review any decision

of the General Assembly unless, in the case of non-judicial decisions only, the Commission is fully satisfied that relevant circumstances have significantly changed.

12. The Commission shall be accountable to the General Assembly which may revoke any action in excess of the powers conferred by this Act.

#### **Lower Courts**

13. When a meeting of the Commission coincides with an ordinary meeting of a Presbytery or Kirk Session of which any member of the Commission is a member, such Presbytery or Kirk Session has permission to meet, but the priority for such member is to attend the Commission, and the Presbytery or Kirk Session shall not in the absence of such member transact any business which might be prejudicial to his or her interests.

14. All Presbyteries and Kirk Sessions shall comply with decisions of the Commission as if they were decisions of the General Assembly, as they shall be answerable to the next General Assembly.

#### **Report to the General Assembly**

15. The Legal Questions Committee shall report to the General Assembly all decisions made by the Committee in terms of Section 4 of this Act, and any other matters in connection with the Commission which, in the opinion of the Committee, should be brought to the notice of the General Assembly.

16. The Minutes of all meetings of the Commission shall be submitted to the General Assembly through the Legal Questions Committee, in the Volume of Reports, or in the Order of Proceedings, or in the Daily Papers, and they shall be laid on the table, without discussion, provided that the General Assembly may take appropriate steps to consider and deal with any allegation that the Commission has acted in excess of the powers conferred by this Act.

#### **Repeal**

17. Act V 1981, and Act XIII 1992 are hereby repealed, and references in Act XIX 1992, and Regulations 1, 2 and 3 1992 to "the Property Commission" are amended to read "the Commission of Assembly".

**IX. NATIONAL LOTTERY ACT (ACT IX 1998)**

*Edinburgh, 18th May 1998, Session 4.*

The General Assembly enact and ordain as follows:-

Whereas the Church has in the past benefited from public funding, and such funding is increasingly financed by the National Lottery Revenues, all agencies of the Church are hereby authorised to determine for themselves whether or not to make application for or use of Lottery funding; provided that such agencies are nevertheless hereby

- (a) discouraged from making such application or use, or both, of Lottery funding unless they are satisfied that no suitable alternative funding sources are available; and
- (b) directed that the areas where such application or use, or both, may be made are the following:
  - (i) community work and cultural activities,
  - (ii) partnership ventures, and
  - (iii) work in relation to buildings, the General Trustees being hereby authorised, where appropriate to, approve such applications.





**IV. CONGREGATIONAL VOWS AT INDUCTION ACT (ACT IV 1999) (AS AMENDED BY ACT VIII 2003)**

*Edinburgh, 8th May 1999, Session 1.*

The General Assembly enact and ordain that the following questions are authorised for use in services of induction of a minister, and that Act section 29(3) of Act VIII 2003 shall be construed accordingly.

Brothers and sisters in Christ,  
as you receive *N.N.* as your minister,  
do you renew your allegiance  
to Jesus Christ as your Saviour and Lord?

**We do.**

Do you promise to share in the worship of the Church,  
and to give generously for its work  
at home and throughout the world?

**We do.**

Do you undertake to support and encourage your minister  
by prayers and by your friendship?

**We do.**

Do you commit yourselves again  
to be witnesses for Christ in this community  
and to serve one another in love  
through the power of the Holy Spirit?

**We do.**



**V. SACRAMENTS ACT (ACT V 2000) (AS AMENDED BY ACT IX 2003 AND ACT II 2023)**  
*Edinburgh, 20th May 2000, Session 1*

(incorporating Acts XXI 1956, XVII 1963, IV 1975, III 1985 and XV 1992)

The General Assembly enact and ordain as follows:–

**Administration of the Sacraments**

1. The Sacraments of the Church may be administered only by the following persons:–
  - (1) a person who has the status of a minister of the Church of Scotland and who (a) has been ordained by a Presbytery of the Church of Scotland; or (b) has been inducted to a charge of the Church of Scotland; or (c) has been admitted by the General Assembly as a minister of the Church of Scotland;
  - (2) a person who has the status of an ordained minister of the United Reformed Church, the Presbyterian Church in Ireland or the Presbyterian Church in Wales, and who has been duly authorised to administer the Sacraments by the Presbytery of the bounds, in which matter the Presbytery shall be the sole judge;
  - (3) a person who has the status of an ordained minister in the Communion of Protestant Churches in Europe (Leuenberg Fellowship)<sup>1</sup> or in the World Communion of Reformed Churches<sup>2</sup>, and who has been duly authorised to administer the Sacraments by the Presbytery of the bounds, in which matter the Presbytery shall be the sole judge;
  - (4) a person who has the status of an ordained minister in the Church of England, in virtue of the *Columba Declaration* (2016), or of the Scottish Episcopal Church, in virtue of the *Saint Andrew Declaration* (2021), and who has been duly authorised to administer the Sacraments by the Presbytery of the bounds, in which matter the Presbytery shall be the sole judge.
2. Notwithstanding the foregoing provisions, ministers of the Church of Scotland may occasionally invite ministers of other Churches whose orders are in accordance with the standards of the Church of Scotland to administer the Sacraments. Any minister whose invitation to a minister of another Church in terms of this section has been accepted shall intimate the same in writing to the Clerk of Presbytery within fourteen days thereafter.

**Administration of Baptism**

3. Baptism signifies the action and love of God in Christ, through the Holy Spirit, and is a seal upon the gift of grace and the response of faith.
  - (a) Baptism shall be administered in the name of the Father and of the Son and of the Holy Spirit, with water, by sprinkling, pouring, or immersion.
  - (b) Baptism shall be administered to a person only once.

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<sup>1</sup> For a list of member churches see <https://www.leuenberg.eu/about-us/member-churches/>. The Presbytery should satisfy itself that the person is of good standing.

<sup>2</sup> For a list of member churches see <http://wcrch.ch/members>. The Presbytery should satisfy itself that the person is of good standing.

4. Baptism may be administered to a person upon profession of faith.
  - (a) The minister and Kirk Session shall judge whether the person is of sufficient maturity to make personal profession of faith, where necessary in consultation with the parent(s) or legal guardian(s).
  - (b) Baptism may be administered only after the person has received such instruction in its meaning as the minister and Kirk Session consider necessary, according to such basis of instruction as may be authorised by the General Assembly.
  - (c) In cases of uncertainty as to whether a person has been baptised or validly baptised, baptism shall be administered conditionally.
5. Baptism may be administered to a person with learning difficulties who makes an appropriate profession of faith, where the minister and Kirk Session are satisfied that the person shall be nurtured within the life and worship of the Church.
6. Baptism may be administered to a child:
  - (a) where at least one parent, or other family member (with parental consent), having been baptised and being on the communion roll of the congregation, will undertake the Christian upbringing of the child;
  - (b) where at least one parent, or other family member (with parental consent), having been baptised but not on the communion roll of the congregation, satisfies the minister and Kirk Session that he or she is an adherent of the congregation and will undertake the Christian upbringing of the child;
  - (c) where at least one parent, or other family member (with parental consent), having been baptised, professes the Christian faith, undertakes to ensure that the child grows up in the life and worship of the Church and expresses the desire to seek admission to the communion roll of the congregation;
  - (d) where the child is under legal guardianship, and the minister and Kirk Session are satisfied that the child shall be nurtured within the life and worship of the congregation;and, in each of the above cases, only after the parent(s), or other family member, has received such instruction in its meaning as the minister and Kirk Session consider necessary, according to such basis of instruction as may be authorised by the General Assembly.
7. Baptism shall normally be administered during the public worship of the congregation in which the person makes profession of faith, or of which the parent or other family member is on the communion roll, or is an adherent. In exceptional circumstances, baptism may be administered elsewhere (e.g. at home, in hospital). Further, a minister may administer baptism to a person resident outwith the minister's parish, and who is not otherwise connected with the congregation, only with the consent of the minister of the parish in which the person would normally reside, or of the Presbytery.
8. In all cases, an entry shall be made in the Kirk Session's Baptismal Register and a Certificate of Baptism given by the minister. Where baptism is administered in a chaplaincy context, it shall be recorded in the Baptismal Register there and, where possible, reported to the minister of the parish in which the person resides.

9. Baptism shall normally be administered by an ordained minister. In situations of emergency (a) a minister may, exceptionally, and notwithstanding the preceding provisions of the Act, respond to a request for baptism in accordance with his or her pastoral judgement, and (b) baptism may be validly administered by a person who is not ordained, always providing that it is administered in the name of the Father and of the Son and of the Holy Spirit, with water. In every occurrence of the latter case, of which a minister or chaplain becomes aware, an entry shall be made in the appropriate Baptismal Register and where possible reported to the Clerk of the Presbytery within which the baptism was administered.
10. Each Presbytery shall form, or designate, a committee to which reference may be made in cases where there is a dispute as to the interpretation of this Act. Without the consent of the Presbytery, no minister may administer baptism in a case where to his or her knowledge another minister has declined to do so.
11. The Church of Scotland, as part of the Universal Church, affirms the validity of the sacrament of baptism administered in the name of the Father and of the Son and of the Holy Spirit, with water, in accordance with the discipline of other members of the Universal Church.

#### **Admission to the Lord's Table**

12. The Lord's Table is open to any baptised person who loves the Lord and responds in faith to the invitation "Take, eat".
13. In accordance with the law and practice of this Church a Kirk Session is obliged to test the response in faith of a baptised person before authorising admission to the Lord's Table. The Kirk Session requires to be satisfied that the baptised person has received instruction in the faith and order of the Church, is of Christian character and is ready to make public profession of faith, whereupon such person is admitted to the Lord's Table and his or her name is added to the Communion Roll of the congregation.
14. Notwithstanding the terms of Section 13 above there is nothing in the law of the Church which would automatically disqualify a person with learning difficulties from admission to the Lord's Table and from having his or her name added to the Communion Roll of a congregation.
15. Notwithstanding the terms of Section 13 and recognising the free discretion of the Kirk Session in this matter, where a Kirk Session is satisfied that baptised children are being nurtured within the life and worship of the Church and love the Lord and respond in faith to the invitation "take, eat", it may admit such children to the Lord's Table, after pastorally overseeing the response of faith of such children to see when it is right for them to come to the Lord's Table. The names of such children shall be admitted to the Communion Roll of the congregation when they have made public profession of their faith.
16. For the avoidance of doubt:
  - (1) The Sacrament of the Lord's Supper shall normally be celebrated in Church at stated times determined by the Kirk Session.
  - (2) The Sacrament of the Lord's Supper may be administered privately in Church or elsewhere at the discretion of a minister.

17. The elders normally assist the minister in the distribution of the elements at the Lord's Supper.
18. This Act shall come into force on 1 January 2001 and Acts XXI 1956, XVII 1963, IV 1975, III 1985 and XV 1992 shall be repealed as at that date.

## **VI. COMMUNION ROLLS ACT (ACT VI 2000)**

*Edinburgh, 20th May 2000, Session 1*

(incorporating Acts XXIII 1933, VI 1938 (as amended by Acts I 1972, IV 1977 and III 1991), and VI 1951 and Regulations IV 1964 and I 1996)

The General Assembly enact and ordain:–

### **Communion Rolls**

1. There shall be a Communion Roll, made up and kept by the Kirk Session of every parish, containing the names and addresses of the communicants. A record shall be kept in this Roll of the dates:
  - (1) of enrolment
    - (a) by profession as First Communicants
    - (b) by receipt of Certificates of Transference
    - (c) by special resolution of the Kirk Session
  - (2) of removals
    - (a) by death
    - (b) by issue of Certificates of Transference
    - (c) by special resolution of Kirk Session.
2. For the purposes of attestation by the Presbytery, Communion Rolls kept manually shall be submitted in their entirety.

### **Communion Rolls on Computer**

3. A Congregation's Communion Roll may be kept on computer provided that an up-to-date printout of the Roll as at 31st December, duly attested by the Kirk Session, is produced at the annual inspection of records.
4. The printout shall contain the names and addresses, with date and manner of admission, of all members as at 31st December of the year under inspection. It shall also contain an appendix recording the names and addresses of people who have been removed from the Roll during the year, along with the date, reason and means of removal. The form and style of the printout shall be approved by the Superintendence Committee, or other committee appointed by the Presbytery for this purpose, before it first comes into use, and the committee shall report such approval to the Presbytery.
5. After attestation by the Presbytery, annual printouts shall be kept as historical records, and shall be preserved in a substantial loose-leaf binder, or permanently bound at intervals not exceeding ten years.
6. Kirk Sessions proposing to store data in a computer must ensure before doing so that the requirements of the Data Protection Act will be satisfied, and to this end they should record their intent with the Presbytery Clerk.

### **Certificates of Transference**

7. A communicant's name shall be transferred from the Communion Roll of one congregation to that of another congregation only by a Certificate of Transference, and

such certificate shall not entitle to enrolment after the expiry of one year from the date which it bears. A Kirk Session receiving a Certificate after the period of validity has expired shall investigate the circumstances carefully and may thereafter resolve to add the name of the person concerned to the Communion roll or to take such other action as it shall deem appropriate.

In the case of persons presenting Certificates of Transference, the date of enrolment shall be the date of lodging the certificate; and, in other cases, it shall be the date of the resolution of the Kirk Session to add the name to the Roll. The date of removal shall be the date of death, or the issue of a Certificate of Transference, or of a resolution of the Kirk Session to remove the name.

### **Annual Revision and Pastoral Oversight**

8. The Kirk Session shall revise and attest the Communion Roll, as at 31st December in each year, the attestation to include a statement of the number of names on the Roll after revision, and shall at the same meeting make an entry in the Minutes that it did so. It is recommended that intimation be given from the pulpit on each of the two preceding Sundays that this procedure is to be taken.
9. At the annual revision of the Communion Roll the question of adherence to vows of Church membership shall be raised in the case of any person who during the year under review, without obvious and sufficient reason, has not, in the opinion of the Kirk Session, shown sufficient interest or taken an adequate share in the worship, mission and service of the Church. In the case of every such person whose address is known, the question shall be raised personally.
10. If any person with whom the question of adherence to vows has been raised does not respond in a manner satisfactory to the Kirk Session, the Kirk Session may remove the name of such person from the Communion Roll at the next annual revision. The names of persons whose names have been removed from the Roll under this Section shall be recorded in the Minutes and may be restored to the Roll only by resolution of the Kirk Session.
11. The Kirk Session, with a view to lessening the danger of lapsing from Church connection, shall issue to every member in full Communion when leaving, or immediately after leaving, the parish or district to take up residence elsewhere, a Certificate of Transference, unless the communicant has expressed a definite desire to retain his or her connection with the congregation and the minister and Kirk Session are prepared to accept pastoral responsibility for him or her; and, if their destination be known, shall intimate accordingly, either to the minister of the parish within which the communicant is going, or has gone, to reside, or to the Presbyterial Correspondent. Kirk Sessions receiving Certificates of Transference shall acknowledge receipt of the same to the Kirk Session which has issued them.
12. (1) The Kirk Session, with a view to continued supervision, shall keep a Supplementary Roll, on which shall be placed the names of those who have been removed from the Communion Roll without a Certificate of Transference and who continue to reside in the parish or district.  
The Supplementary Roll shall be revised and attested annually.  
(2) While persons whose names have been placed on the Supplementary Roll of a



congregation have had their names removed from the Communion Roll of that congregation, they are in no way debarred from being admitted to the Sacrament of the Lord's Supper if they so desire, nor from being restored to the Communion Roll of a congregation by special resolution of the Kirk Session.

- (3) Persons whose names have been placed on the Supplementary Roll are not eligible to be elected as office-bearers, nor to take part in, nor vote in Congregational Meetings. They may be admitted on application to the Electoral Register.
  - (4) Persons whose names are on the Supplementary Roll and who remove to another parish should have their names removed from the Roll and intimation sent to the minister of the parish to which they have gone to reside.
13. It is the duty of the Kirk Session to exercise pastoral care throughout the parish and to take due account of persons who have no connection with any Church.

**Attestation by Presbytery**

14. The Communion Roll and Supplementary Roll shall be submitted once a year to the Presbytery of the bounds for attestation, and Presbyteries are enjoined to see that each Kirk Session keeps a Communion Roll and Supplementary Roll in terms of this Act, and submits the same annually to the Presbytery.
15. Notwithstanding anything contained in this Act, access to the Lord's Table shall not be refused to any person who desires to communicate, provided such person has previously been admitted a member in full communion and is not under discipline by a court of the Church.
16. The right of the Kirk Session to admit to the Lord's Table a member of any Christian Church is expressly affirmed.
17. This Act shall come into force on 1 January 2001 and Acts XXIII 1933, VI 1938 (as amended by Acts I 1972, IV 1977 and III 1991), VI 1951 and Regulations IV 1964 and I 1996 shall be repealed as at that date.



### **XIII. NEW CHARGE DEVELOPMENT ACT (ACT XIII 2000) (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.
  
- 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.

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

*Edinburgh, 19 May 2001 Session 1*

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 Faith Nurture Forum, 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.

## **V. PRESBYTERY ASSESSORS ACT (ACT V 2001)**

*Edinburgh, 21 May 2001, Sess.4*

The General Assembly enact and ordain:

1. A Presbytery, finding that the number of its ministers who are available to fulfil the functions of the Presbytery is insufficient by reason of vacancies or illness or other like temporary cause, may apply to the Legal Questions Committee and request that it nominate one or more assessor ministers as provided for in Section 2.
2. The Legal Questions Committee is authorised, after consultation with the Faith Nurture Forum, to nominate assessor ministers to any Presbytery which makes application in terms of this Act and shows sufficient cause to the Committee for such nomination to be made.
3. A minister appointed as an assessor in terms of this Act shall be a member of another Presbytery, and shall retain such membership for the duration of his or her appointment.
4. The task and function of a minister appointed as assessor to another Presbytery, and his or her responsibilities and the privileges of membership of Presbytery shall normally extend only to those necessary to fulfil the allocated task.





**VI. CO-OPERATION BETWEEN PRESBYTERIES ACT (ACT VI 2002) (AS AMENDED BY ACTS VII 2003, I 2010, I 2011, VII 2016 AND I 2019)**

*Edinburgh, 25 May 2002 Session 1*

The General Assembly declare and enact as follows:

1. Subject to the provisions of this Act, a Presbytery may appoint to a special committee or commission of the Presbytery a voting member of another Presbytery.
2. Such appointments shall be made only to committees established by the Presbytery to fulfil the purposes of Act II 1984 (as amended), Act I 1988 (as amended), Act III 2001 (as amended), Act VII 2003, Acts IV and V 2007, Act I 2010 and Act I 2019.
3. Such appointments shall not be made to any standing committee of the Presbytery, nor shall any appointee be granted a seat in the appointing Presbytery.
4. An individual appointed in terms of this Act shall retain membership of his or her own Presbytery for the duration of the appointment.
5. The task and function of an individual appointed in terms of this Act, and his or her responsibilities and the privileges of membership of a committee or commission, shall normally extend only to those necessary to fulfil the allocated task.
6. The reasonable expenses of an individual appointed in terms of this Act shall be met by the Presbytery making the appointment.
7. Nothing in this Act shall be taken to be an amendment or qualification of Act V 2001.



**VIII. VACANCY PROCEDURE ACT (ACT VIII 2003) (AS AMENDED BY ACTS IX, X AND XII 2004, II 2005, V 2006 AND I, IV AND VI 2008, II AND V 2009, IV 2010, V 2011, I AND IX 2013, X 2014, II 2015, III AND X 2016, II 2017, VII, XIV AND XV 2018, I 2019 AND VI 2020 AND TEMPORARILY AMENDED BY ACT IX 2021)**

*Edinburgh, 17 May 2003, Session I*

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

**1. Vacancy Procedure Committee**

- (1) Each Presbytery shall appoint a number of its members to be available to serve on Vacancy Procedure Committees and shall provide information and training as required for those so appointed.
- (2) As soon as the Presbytery Clerk is aware that a vacancy has arisen or is anticipated, he or she shall consult the Moderator of the Presbytery and they shall appoint a Vacancy Procedure Committee of five persons from amongst those appointed in terms of subsection (1), which Committee shall (a) include at least one minister and at least one elder and (b) exclude any communicant member, the current or any former minister, or any person having, in the Presbytery's opinion, a significant personal connection to the ministry or a former ministry of the vacant charge or of any constituent congregation thereof. The Vacancy Procedure Committee shall include a Convener and Clerk, the latter of whom need not be a member of the Committee but may be the Presbytery Clerk. The same Vacancy Procedure Committee may serve for more than one vacancy at a time.
- (3) The Vacancy Procedure Committee shall have a quorum of three for its meetings.
- (4) The Convener of the Vacancy Procedure Committee may, where he or she reasonably believes a matter to be non-contentious, consult members individually, and may do so by electronic means. A meeting shall be held at the request of any member of the Committee.
- (5) Every decision made by the Vacancy Procedure Committee shall be reported to the next meeting of Presbytery, but may not be recalled by Presbytery where the decision was subject to the provisions of section 2 below.

**2. Request for Consideration by Presbytery**

Where in this Act any decision by the Vacancy Procedure Committee is subject to the provisions of this section, the following rules shall apply:–

- (1) The Presbytery Clerk shall intimate to all members of the Presbytery by mailing, by electronic means, or at a Presbytery meeting, the course of action or permission proposed, and shall arrange for one Sunday's pulpit intimation of the same to be made to the congregation or congregations concerned, in terms of Schedule A. The intimation having been made, it shall be displayed as prominently as possible at the church building for seven days.
- (2) Any four individuals, being communicant members of the congregation or full members of the Presbytery, may give written notice requesting that action be taken in terms of subsection (3) below, giving reasons for the request, within seven days after the pulpit intimation.

- (3) Upon receiving notice in terms of subsection (2), the Presbytery Clerk shall assist the process or permission referred to in subsection (1), which shall then require the approval of the Presbytery.
- (4) The Moderator of the Presbytery shall in such circumstances consider whether a meeting *pro re nata* of the Presbytery should be called in order to avoid prejudicial delay in the vacancy process.
- (5) The Presbytery Clerk shall cause to have served upon the congregation or congregations an edict in terms of Schedule B citing them to attend the meeting of Presbytery for their interest.
- (6) The consideration by Presbytery of any matter under this section shall not constitute an appeal or a Petition, and the decision of Presbytery shall be deemed to be a decision at first instance subject to the normal rights of appeal or dissent-and-complaint.

**3. Causes of Vacancy**

The causes of vacancy shall normally include:

- (a) the death of the minister of the charge;
- (b) the removal of status of the minister of the charge or the suspension of the minister in terms of section 20(2) of Act III 2001 or section 40 of Act I 2019;
- (c) the dissolution of the pastoral tie in terms of Act I 1988 or Act XV 2002;
- (d) the demission of the charge and/or status of the minister of the charge;
- (e) the translation of the minister of the charge to another charge;
- (f) *deleted by Act X 2016.*

**4. Release of Departing Minister**

The Presbytery Clerk shall be informed as soon as circumstances have occurred that cause a vacancy to arise or make it likely that a vacancy shall arise. Where the circumstances pertain to section 3(d) or (e) above, the Vacancy Procedure Committee shall

- (1) except in cases governed by subsection (2) below, decide whether to release the minister from his or her charge and, in any case involving translation to another charge or introduction to an appointment, instruct him or her to await the instructions of the Presbytery or another Presbytery;
- (2) in the case of a minister in the first five years of his or her first charge, decide whether there are exceptional circumstances to justify releasing him or her from his or her charge and proceeding in terms of subsection (1) above;
- (3) determine whether a vacancy has arisen or is anticipated and, as soon as possible, determine the date upon which the charge becomes actually vacant, and
- (4) inform the congregation or congregations by one Sunday's pulpit intimation as soon as convenient;
- (5) The provisions of section 2 above shall apply to the decisions of the Vacancy Procedure Committee in terms of subsections (1) and (2) above.

**5. Seat in Presbytery**

- (1) Subject to the provisions of subsection (2) below, when a vacancy has occurred in terms of section 3(c) or (d) above, the Presbytery shall determine whether the minister is, in the circumstances, entitled to a seat in the Presbytery in terms of section 16 of Act III 2000 (as amended).

- (2) A minister who demits his or her charge without retaining a seat in the Presbytery shall, if he or she retains status as a minister, be subject to the provisions of sections 5 to 15 of Act II 2000 (as amended).

**6. Appointment of Interim Moderator**

- (1) At the same time as the Vacancy Procedure Committee makes a decision in terms of section 4 above, or where circumstances pertain to section 3(a), (b) or (c) above, the Vacancy Procedure Committee shall appoint an Interim Moderator for the charge and make intimation thereof to the congregation subject to the provisions of section 2 above. The Interim Moderator shall be either a ministerial member of the Presbytery in terms of Act III 2000 or Act V 2001 or a member of the Presbytery selected from a list of those who have received such preparation for the task as the Faith Nurture Forum shall from time to time recommend or provide, and he or she shall not be a member in the vacant charge nor a member of the Vacancy Procedure Committee. The name of the Interim Moderator shall be forwarded to the Faith Nurture Forum.
- (2) Subject always to section 6(3), if the Interim Moderator appointed is a ministerial member of Presbytery it is understood that in accepting the appointment she/he is thereby disqualified from becoming an applicant or accepting an invitation to be considered in the current vacancy.
- (3) A ministerial member of Presbytery who has in the past served as an Interim Moderator in the charge is not subject to the disqualification set out in section 6(2) if one of the following conditions applies:
  - (i) The person was discharged as Interim Moderator at least two years prior to time of applying for the vacancy, or
  - (ii) Intimation of the request to be discharged as Interim Moderator was given to the Presbytery Clerk prior to permission to call being given.

**7. Duties of Interim Moderator**

- (1) It shall be the duty of the Interim Moderator to preside at all meetings of the Kirk Session (or of the Kirk Sessions in the case of a linked charge) and to preside at all congregational meetings in connection with the vacancy, or at which the minister would have presided had the charge been full. In the case of a congregational meeting called by the Presbytery in connection with adjustment the Interim Moderator, having constituted the meeting, shall relinquish the chair in favour of the representative of the Presbytery, but he or she shall be at liberty to speak at such a meeting. In consultation with the Kirk Session and the Financial Court he or she shall make arrangements for the supply of the vacant pulpit.
- (2) The Interim Moderator appointed in a prospective vacancy may call and preside at meetings of the Kirk Session and of the congregation for the transaction of business relating to the said prospective vacancy. He or she shall be associated with the minister until the date of the actual vacancy; after that date he or she shall take full charge.
- (3) Provided that permission to call has been given, it shall be the duty of the Interim Moderator to ascertain whether or not the Kirk Session (or Kirk Sessions in the case of a linking or deferred linking or deferred union) may wish to follow the procedures contained in the Ministers and Deacons in Civil Partnerships and Same Sex Marriages Act (Act I 2015), as regards making a decision on whether or not to depart (as "depart" is defined within that Act). Any such decision should be made

after the Kirk Session(s) meets with the Advisory Committee in terms of section 13(2)(a) of this Act.

- (4) The Interim Moderator shall act as an assessor to the Nominating Committee, being available to offer guidance and advice. If the Committee so desire he or she may act as their Convener, but in no case shall he or she have a vote.
- (5) In the event of the absence of the Interim Moderator, the Vacancy Procedure Committee shall appoint a member of the Presbytery who is not a member of the vacant congregation to fulfil any of the rights and duties of the Interim Moderator.
- (6) The Interim Moderator shall have the same duties and responsibilities towards all members of ministry teams referred to in section 16 of Act VII 2003 as if he or she were the parish minister, both in terms of this Act and in respect of the terms and conditions of such individuals.

#### 8. **Permission to Call**

When the decision to release the minister from the charge has been made and the Interim Moderator appointed, the Vacancy Procedure Committee shall consider whether it may give permission to call a minister in terms of Act VII 2003, and may proceed subject to the provisions of section 2 above. The Vacancy Procedure Committee must refer the question of permission to call to the Presbytery if:

- (a) shortfalls exist which in the opinion of the Committee require consideration in terms of section 9 hereunder;
- (b) the Committee has reason to believe that the Vacancy Schedule referred to in section 10 below will not be approved;
- (c) the Committee has reason to believe that the Presbytery will, in terms of section 11 below, instruct work to be carried out on the manse before a call can be sustained, and judges that the likely extent of such work warrants a delay in the granting of permission to call, or
- (d) the Committee has reason to believe that the Presbytery may wish to delay or refuse the granting of permission for any reason.

Any decision by Presbytery to refuse permission to call shall be subject to appeal or dissent-and-complaint.

#### 9. **Shortfalls**

- (1) As soon as possible after intimation of a vacancy or anticipated vacancy reaches the Presbytery Clerk, the Presbytery shall ascertain whether the charge has current or accumulated shortfalls in contributions to central funds, and shall determine whether and to what extent any shortfalls that exist are justified.
- (2) If the vacancy is in a charge in which the Presbytery has determined that shortfalls are to any extent unjustified, it shall not resolve to allow a call of any kind until:
  - (a) the shortfalls have been met to the extent to which the Presbytery determined that they were unjustified, or
  - (b) a scheme for the payment of the unjustified shortfall has been agreed between the congregation and the Presbytery and receives the concurrence of the Faith Nurture Forum and/or the Stewardship and Finance Committee for their respective interests, or
  - (c) a fresh appraisal of the charge in terms of Act VII 2003 has been carried out, regardless of the status of the charge in the current Presbytery plan:

- (i) During such appraisal no further steps may be taken in respect of filling the vacancy, and the Presbytery shall make final determination of what constitutes such steps.
- (ii) Following such appraisal and any consequent adjustment or deferred adjustment the shortfalls shall be met or declared justifiable or a scheme shall be agreed in terms of subsection (b) above; the Presbytery shall inform the Faith Nurture Forum and the Stewardship and Finance Committee of its decisions in terms of this section; and the Presbytery shall remove the suspension of vacancy process referred to in sub-paragraph (i).

#### 10. **Vacancy Schedule**

- (1) When in terms of sections 4 and 6 above the decision to release the minister from the charge has been made and the Interim Moderator appointed, there shall be issued, by the Faith Nurture Forum a Schedule or Schedules for completion by the responsible Financial Board(s) of the vacant congregation(s) in consultation with representatives of the Presbytery, setting forth the proposed arrangements for payment of ministerial expenses and for provision of a manse, showing the ministry requirements and details of any endowment income. The Schedule, along with an Extract Minute from each relevant Kirk Session containing a commitment fully and adequately to support the ministry, shall be forwarded to the Presbytery Clerk. For the avoidance of doubt, the Vacancy Schedule submitted to Presbytery shall include a recently completed Manse Condition Schedule following inspection of the manse of the charge.
- (2) The Schedule shall be considered by the Vacancy Procedure Committee and, if approved, transmitted to the Faith Nurture Forum by the Presbytery Clerk. The Vacancy Procedure Committee or Presbytery must not sustain an appointment and call until the Schedule has been approved by them and by the Faith Nurture Forum, which shall intimate its decision within six weeks of receiving the Schedule from the Presbytery.
- (3) The accuracy of the Vacancy Schedule shall be kept under review by the Vacancy Procedure Committee.
- (4) The provisions of section 2 above shall apply to the decisions of the Vacancy Procedure Committee.

#### 11. **Manse**

As soon as possible after the Manse becomes vacant, the Presbytery Property Committee shall inspect the Manse and come to a view on what work, if any, must be carried out to render it suitable for a new incumbent. The views of the Property Committee should then be communicated to the Presbytery which should, subject to any modifications which might be agreed by that Court, instruct the Financial Board of the congregation to have the work carried out. No induction date shall be fixed until the Presbytery Property Committee has again inspected the Manse and confirmed that the work has been undertaken satisfactorily.

#### 12. **Profiling**

Subject to the right to call having first been granted, the Kirk Session(s) shall prepare a profile of each congregation and parish within the charge, in accordance with the template published in the Guidelines for Kirk Sessions. In the case of a linked charge, this shall take the form of a single document, with separate sections for each constituent congregation. In all cases the profile shall contain, as an appendix, a copy of the most

recent report on each constituent congregation produced in accordance with the Local Church Review Act (Act I 2011). The draft profile(s) shall then be submitted to the Advisory Committee, prior to its meeting with the Kirk Session(s) (section 13(2)(a)), for possible comment and revision.

### 13. **Advisory Committee**

- (1) As soon as possible after intimation of a vacancy or anticipated vacancy reaches the Presbytery Clerk, the Vacancy Procedure Committee shall appoint an Advisory Committee of three subject to the following conditions:
  - (a) at least one member shall be an elder and at least one shall be a minister;
  - (b) the Advisory Committee may comprise members of the Vacancy Procedure Committee and act as a Support Committee to congregations in a vacancy;
  - (c) the Advisory Committee may contain individuals who are not members of the Presbytery;
  - (d) the appointment shall be subject to section 2 above.
- (2) The Advisory Committee shall meet:
  - (a) before the election of the Nominating Committee, with the Kirk Session (or Kirk Sessions both separately and together) of the vacant charge, to consider together in the light of the whole circumstances of the parish or parishes (i) what kind of ministry would be best suited to their needs, (ii) the finalising of the profile which has been prepared in accordance with section 12, and (iii) which system of election of the Nominating Committee described in section 15(2)(e) hereunder shall be used;
  - (b) with the Nominating Committee before it has taken any steps to fill the vacancy, to consider how it should proceed;
  - (c) *deleted by Act III 2016;*
  - (d) *deleted by Act XIII 2020.*
  - (e) with the Nominating Committee at any other time by request of either the Nominating Committee or the Advisory Committee.

In the case of charges which are in the opinion of the Presbytery remote, it will be adequate if the Interim Moderator (accompanied if possible by a member of the Nominating Committee) meets with the Advisory Committee for the purposes listed in paragraphs (a) and (b) above. The Advisory Committee may continue its work in the absence of one member, subject to the agreement of both of the remaining members.

- (3) Before the Nominating Committee reports the identity of the nominee to the Kirk Session and Presbytery, it shall report the process followed to the Advisory Committee (by electronic means if desired) who shall give any further advice it deems necessary.

### 14. **Electoral Register**

- (1) It shall be the duty of the Kirk Session of a vacant congregation to proceed to make up the Electoral Register of the congregation. This shall contain (1) as communicants the names of those persons (a) whose names are on the communion roll of the congregation as at the date on which it is made up, (b) whose names have been added or restored to the communion roll on revision by the Kirk Session subsequently to the occurrence of the vacancy, and (c) who have given in valid Certificates of Transference by the date specified in terms of Schedule C hereto; and (2) as adherents the names of those persons who, being regular



worshippers in the congregation at the date when the vacancy occurred, and not being members of any other congregation, have claimed (in writing in the form prescribed in Schedule D and within the time specified in Schedule C) to be placed on the Electoral Register, the Kirk Session being satisfied that they desire to be permanently connected with the congregation and knowing of no adequate reasons why they should not be admitted as communicants should they so apply.

- (2) At a meeting to be held not later than fourteen days after intimation has been made in terms of Schedule C hereto, the Kirk Session shall decide on the claims of persons to be placed on the Electoral Register, such claims to be sent to the Session Clerk before the meeting. At this meeting the Kirk Session may hear parties claiming to have an interest. The Kirk Session shall thereupon prepare the lists of names and addresses of communicants and of adherents which it is proposed shall be the Electoral Register of the congregation, the names being arranged in alphabetical order and numbered consecutively throughout. For the avoidance of doubt, the names of individuals who are not contactable and whose address is unknown shall not be entered on the Electoral Register. The decision of the Kirk Session in respect of any matter affecting the preparation of the Electoral Register shall be final.
- (3) The proposed Electoral Register having been prepared, the Interim Moderator shall cause intimation to be made on the first convenient Sunday in terms of Schedule E hereto that any person who believes they are eligible to be included in the Electoral Register may inquire as to whether their name has been included, and the provisions which the Kirk Session has made for such inquiry, and further shall specify a day when the Kirk Session will meet to hear further requests for inclusion in the Register and will finally revise and adjust the Register. At this meeting the list, having been revised, numbered and adjusted, shall on the authority of the court be attested by the Interim Moderator and the Clerk as the Electoral Register of the congregation.
- (4) This Register, along with a duplicate copy, shall without delay be transmitted to the Presbytery Clerk who, in name of the Presbytery, shall attest and return the principal copy, retaining the duplicate copy in his or her own possession. For all purposes connected with this Act the congregation shall be deemed to be those persons whose names are on the Electoral Register, and no other.
- (5) If after the attestation of the Register any communicant is given a Certificate of Transference, the Session Clerk shall delete that person's name from the Register and initial the deletion. Such a Certificate shall be granted only when application for it has been made in writing, and the said written application shall be retained until the vacancy is ended.
- (6) At any time after a period of six months has elapsed since the Electoral Register being attested, but before the name of a nominee is reported to the Kirk Session, the Kirk Session shall have power, if it so desires, to:
  - (a) revise and update the Electoral Register. Intimation of this intention shall be given in terms of Schedule F hereto. Additional names shall be added to the Register in the form of an Addendum which shall also contain authority for the deletions which have been made;

or

- (b) add to the Electoral Register the name of any person who has been added to the Communion Roll of the congregation, in the form of an Addendum.

In the case of (a) or (b) above, two copies of this Addendum, duly attested, shall be lodged with the Presbytery Clerk who, in name of the Presbytery, shall attest and return the principal copy, retaining the duplicate copy in his or her own possession.

#### 15. **Appointment of Nominating Committee**

- (1) When permission to call has been given and the Electoral Register has been attested, intimation in terms of Schedule G shall be made that a meeting of the congregation is to be held to appoint a Committee of its own number for the purpose of nominating one person to the congregation with a view to the appointment of a minister.
- (2)
  - (a) The Interim Moderator shall preside at this meeting, and the Session Clerk, or in his or her absence a person appointed by the meeting, shall act as Clerk.
  - (b) The Interim Moderator shall remind the congregation of the number of members it is required to appoint in terms of this section and shall call for Nominations. To constitute a valid Nomination the name of a person on the Electoral Register has to be proposed and seconded, and assurance given by the proposer that the person is prepared to act on the Committee. The Clerk shall take a note of all Nominations in the order in which they are made.
  - (c) For the avoidance of doubt, a member of a vacant charge shall not be eligible for nomination to serve on a Nominating Committee, if he or she is:
    - (i) a minister (including a retired minister) of the Church of Scotland,
    - (ii) a member of the diaconate of the Church of Scotland,
    - (iii) an employee of the vacant charge,
    - (iv) an employee of the Faith Nurture Forum who works in the vacant charge, or
    - (v) the spouse or civil partner, of the current minister, or of any former minister of the charge.
  - (d) When it appears to the Interim Moderator that the Nominations are complete, they shall be read to the congregation and an opportunity given for any withdrawals. If the number of persons nominated does not exceed the maximum fixed in terms of subsection (4) below there is no need for a vote, and the Interim Moderator shall declare that these persons constitute a Nominating Committee.
  - (e) If the number exceeds the maximum the election shall proceed by one of the following means, chosen in advance by the Kirk Session, and being either (i) the submission of the names by the Interim Moderator, one by one as they appear on the list, to the vote of the congregation, each member having the right to vote for up to the maximum number fixed for the Committee, and voting being by standing up, or (ii) a system of written ballot devised by the Kirk Session to suit the size of the congregation and approved by the Vacancy Procedure Committee or the Presbytery. In either case, in the event of a tie for the last place a further vote shall be taken between or among those tying.
  - (f) The Interim Moderator shall, at the same meeting or as soon thereafter as the result of any ballot has been determined, announce the names of those thus

elected to serve on the Nominating Committee, and intimate to them the time and place of their first meeting; which may be immediately after the congregational meeting provided that has been intimated along with the intimation of the congregational meeting.

- (3) Where there is an agreement between the Presbytery and the congregation or congregations that the minister to be inducted shall serve either in a team ministry involving another congregation or congregations, or in a designated post such as a chaplaincy, it shall be competent for the agreement to specify that the Presbytery shall appoint up to two representatives to serve on the Nominating Committee.
- (4) The Vacancy Procedure Committee shall, subject to the provisions of section 2 above, determine the number who will act on the Nominating Committee, being an odd number up to a maximum of thirteen.
- (5) When the vacancy is in a linked charge, or when a union or linking of congregations has been agreed but not yet effected, or when there is agreement to a deferred union or a deferred linking, or where the appointment is to more than one post, the Vacancy Procedure Committee shall, subject to the provisions of section 2 above determine how the number who will act on the Nominating Committee will be allocated among the congregations involved, unless provision for this has already been made in the Basis of Union or Basis of Linking as the case may be.
- (6) The Nominating Committee shall not have power to co-opt additional members but the relevant Kirk Session shall have power when necessary to appoint a replacement for any of its appointees who ceases, by death or resignation, to be a member of the Nominating Committee, or who, by falling ill or by moving away from the area, is unable to serve as a member of it.

**16. Constitution of the Nominating Committee**

It shall be the duty of the Interim Moderator to summon and preside at the first meeting of the Nominating Committee, which may be held at the close of the congregational meeting at which it is appointed and at which the Committee shall appoint a Convener and a Clerk. The Clerk, who need not be a member of the Committee, shall keep regular minutes of all proceedings. The Convener shall have a deliberative vote (if he or she is not the Interim Moderator) but shall in no case have a casting vote. If the Clerk is not a member of the Committee, he or she shall have no vote. At all meetings of the Committee only those present shall be entitled to vote.

**17. Task of the Nominating Committee**

- (1) The Nominating Committee shall have the duty of nominating one person to the congregation with a view to the election and appointment of a minister.
- (2) It shall proceed by a process of announcement in a monthly vacancy list, application and interview, and may also advertise, receive recommendations and pursue enquiries in other ways. The Nominating Committee shall make available to all applicants and enquirers the Profile and Appendix specified in section 12. Regardless of how such individuals may initially have been approached or identified, no individual shall be considered as a candidate for the vacancy unless he or she has first submitted a formal application.
- (3) The Committee shall make themselves aware of the roles of the other members of any ministry team as described in section 16 of Act VII 2003 and may meet with them for this purpose, but shall not acquire responsibility or authority for the negotiation or alteration of their terms and conditions.

**18. Eligibility for Election**

- (1) 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:
  - (a) A minister holding Category **O** registration, in terms of the Registration of Ministries Act (Act II 2017);
  - (b) 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;
  - (c)
    - (i) A licentiate of the Church of Scotland who has satisfactorily completed, or has been granted exemption from, his or her period of probationary service.
    - (ii) A Graduate Candidate holding a Graduate Candidate's Certificate in terms of section 22 of Act X 2004.
  - (d) The holder of a Certificate of Eligibility or of a Temporary Certificate of Eligibility, in either case in terms of Act IX 2002.
- (2) Notwithstanding section (1) above, the following categories of persons shall not be eligible to apply for vacancies:
  - (a) Anyone who has served as an Interim Moderator in the current vacancy unless the conditions set out in section 6(3) apply.
  - (b) A person who is the subject of ongoing proceedings being undertaken in accordance with the Discipline of Ministry Act (Act III 2001) or the Discipline Act (Act I 2019).
  - (c) A person who is not a member of, or cannot become a member of, the PVG Scheme, as defined in the Safeguarding Act (Act XVI 2018).

**19. Ministers of a Team**

Ministers occupying positions within a team ministry in the charge, or larger area including the charge, and former holders of such positions, shall be eligible to apply and shall not by virtue of office be deemed to have exercised undue influence in securing the call. A *locum tenens* in the vacant charge shall not by virtue of office be deemed to have exercised undue influence in securing the call.

**20. Temporary Certificates of Eligibility**

A minister who holds a Temporary Certificate of Eligibility shall, if inducted to a charge, be inducted for a period of three years only, extendable on one occasion only in accordance with the provisions of section 6(b)(ii) of Act IX 2002.

**21. Nomination**

- (1) Before the candidate is asked to accept Nomination, the Interim Moderator shall ensure that the candidate is given an adequate opportunity to see the whole ecclesiastical buildings (including the Manse) pertaining to the congregation, and to meet privately with all members of staff of the charge or of any wider ministry team. Furthermore, the candidate shall be provided with:
  - (a) a copy of the current Presbytery Plan and of any current Basis of Adjustment or Basis of Reviewable Charge;
  - (b) copies of the most recent annual report and accounts for each congregation of the charge, as approved by an independent examiner; and
  - (c) copies of the most recent quinquennial inspection reports in relation to the buildings of the charge.

The candidate shall acknowledge receipt of the above documents in writing to the Interim Moderator.

- (2) Before any Nomination is intimated to the Kirk Session and Presbytery Clerk, the Clerk to the Nominating Committee shall secure the written consent thereto of the nominee.
- (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.
  - (c) In addition, in the case of a minister in the first five years of his or her first charge, an extract minute shall be obtained either from the Vacancy Procedure Committee of his or her current Presbytery, or from that Presbytery, exceptionally releasing the minister.
  - (d) In the case of all ministers, this shall include evidence of membership of the PVG Scheme, as defined in the Safeguarding Act (Act XVI 2018), or of application for such membership.

## 22. **Preaching by Nominee**

- (1) The Interim Moderator, on receiving notice of the Committee's Nomination, shall arrange that the nominee conduct public worship in the vacant church or churches, normally within four Sundays, and that the ballot take place immediately after each such service.
- (2) The Interim Moderator shall thereupon cause intimation to be made on two Sundays regarding the arrangements made in connection with the preaching by the nominee and the ballot thereafter, all in terms of Schedule H hereto.

## 23. **Election of Minister**

- (1) The Interim Moderator shall normally preside at all congregational meetings connected with the election, which shall be in all cases by ballot, and shall normally be in charge of the ballot.
- (2) The Interim Moderator may invite one or more persons (not being persons whose names are on the Electoral Register of the vacant congregation) to assist him or her in the conduct of a ballot vote when he or she judges this desirable.
- (3) When a linking or a deferred union or deferred linking is involved the Interim Moderator shall consult and reach agreement with the minister or Interim Moderator of the other congregation regarding the arrangements for the conduct of public worship in these congregations by the nominee as in section 22(1) above. The Interim Moderator shall in writing appoint a member of Presbytery to take full charge of the ballot vote for the other congregation. In the case of a deferred union or deferred linking the minister already inducted shall not be so appointed, nor shall he or she be in any way involved in the conduct of the election.

## 24. **Ballot Procedure**

- (1) The Kirk Session shall arrange to have available at the time of election a sufficient supply of voting-papers printed in the form of Schedule I hereto, and these shall be put into the custody of the Interim Moderator who shall preside at the election, assisted as in section 23 above. He or she shall issue on request to any person whose name is on the Electoral Register a voting-paper, noting on the Register that this has been done. Facilities shall be provided whereby the voter may mark the paper in secrecy, and a ballot-box shall be available wherein the paper is to be deposited when marked. The Interim Moderator may assist any person who asks for help in respect of completing the voting-paper, but no other person whatever shall communicate with the voter at this stage. The Interim Moderator, or the deputy appointed by him or her, shall be responsible for the safe custody of ballot-box, papers and Electoral Register.
- (2) As soon as practicable, and at latest within twenty-four hours after the close of the voting, the Interim Moderator shall constitute the Kirk Session, or the joint Kirk Sessions when more than one congregation is involved, and in presence of the Kirk Session shall proceed with the counting of the votes, in which he or she may be assisted as provided in section 23 above. When more than one ballot-box has been used and when the votes of more than one congregation are involved, all ballot-boxes shall be emptied and the voting-papers shall be mixed together before counting begins so that the preponderance of votes in one area or in one congregation shall not be disclosed.
- (3) A voting-paper shall only be considered as spoilt and the vote not counted where the intention of the voter is unclear, and in no other circumstances. It shall be for the Kirk Session, on the recommendation of the Interim Moderator, to determine whether the intention of the voter is clear.
- (4) If the number voting For exceeds the number voting Against the nominee shall be declared elected and the Nominating Committee shall be deemed to be discharged.
- (5) If the number voting For is equal to or less than the number voting Against, the Interim Moderator shall declare that there has been failure to elect and that the Nominating Committee is deemed to have been discharged. He or she shall proceed with the election of a fresh Nominating Committee in terms of section 15 above, without further reference to the Presbytery.
- (6) After the counting has been completed the Interim Moderator shall sign a declaration in one of the forms of Schedule J hereto, and this shall be recorded in the minute of the Kirk Session or of the Kirk Sessions. An extract shall be affixed to the notice-board of the church, or of each of the churches, concerned. In presence of the Kirk Session the Interim Moderator shall then seal up the voting-papers along with the marked copy of the Electoral Register, and these shall be transmitted to the Presbytery Clerk in due course along with the other documents specified in section 29 below.

**25. Withdrawal of Nominee**

- (1) Should a nominee intimate withdrawal before he or she has preached as nominee, the Nominating Committee shall continue its task and seek to nominate another nominee.
- (2) Should a nominee intimate withdrawal after he or she has been elected, the Nominating Committee having been discharged, the Interim Moderator shall

proceed with the election of a fresh Nominating Committee in terms of section 15 above, without further reference to the Presbytery.

**26. The Call**

- (1) The Interim Moderator shall, along with the intimation regarding the result of the voting, intimate the arrangements made for those on the Electoral Register of the congregation over a period of not less than eight days to subscribe the Call (Schedule K). Intimation shall be in the form of Schedule L hereto.
- (2) The Call may be subscribed on behalf of an individual on the Electoral Register not present to sign in person, provided a mandate authorising such subscription is produced as in Schedule M. All such entries shall be initialled by the Interim Moderator or by the member of the Kirk Session appending them.
- (3) Those eligible to sign the Call shall be all those whose names appear on the Electoral Register. A paper of concurrence in the Call may be signed by persons associated with the congregation whose names have not been entered on the Electoral Register.

**27. Applications from outwith the EEA and Switzerland**

*Deleted by Act XIII 2020.*

**28. Failure to Nominate**

The exercise by a congregation of its right to call a minister shall be subject to a time-limit of two years; this period shall be calculated from the date when intimation is given of the agreement to grant leave to call.

If no election has been made and intimated to the Presbytery by the expiry of that time then the leave to call expires and the Presbytery shall review the matter. Thereafter the Presbytery may either (1) resolve to review the relevant aspects of the Mission Plan in accordance with the Presbytery Mission Plan Act (Act VIII 2021)

or (2) if the Presbytery is still satisfied that a minister should be appointed, resolve that the leave to call shall be reinstated and the Presbytery shall proceed in one of the following ways:

- (a) grant an extension, which shall usually be for a further year and instruct the Kirk Session to revise and update the parish profile in line with the template published in the Guidelines for Kirk Sessions. If no appointment is made in this further period, the Presbytery shall proceed again in terms of this section of the Act and may select any option, including further extensions;
- (b) instruct that a fresh Nominating Committee be elected in terms of section 15 above, subject to a further time-limit on the right to call of two years, calculated from the date that Presbytery so resolves. The process shall then be followed in terms of this Act from the point of the election of the Nominating Committee; or
- (c) take steps to make such an appointment, proceeding as follows:—
  - (i) The Presbytery shall discharge the Nominating Committee, strengthen the Advisory Committee which had been involved in the case by the appointment of an additional minister and elder, instruct that Committee to bring forward to a subsequent meeting the name of an eligible individual for appointment to the charge and intimate this instruction to the congregation. If satisfied with the recommendation brought by the Advisory Committee, the Presbytery shall thereupon make the appointment.
  - (ii) 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.

- (iii) The Presbytery Clerk shall cause intimation to be made in the form of Schedule N that the person appointed will conduct public worship on the day specified and that a Call in the usual form will lie with the Session Clerk or other suitable person for not less than eight free days to receive the signatures of the congregation. The conditions governing the signing of the Call shall be as in section 26 above.
- (iv) At the expiry of the time allowed, the Call shall be transmitted by the Session Clerk to the Presbytery Clerk who shall lay it, along with the documents referred to in sub-paragraph (ii) above, before the Presbytery at its first ordinary meeting or at a meeting *in hunc effectum*.

Notwithstanding the foregoing provisions of this section, where permission to call in terms of section 8 of this Act has been given prior to 1 June 2021 the vacancy process in a charge may continue after 1 June 2021 but if that process has not led to the preaching of a nominee in terms of section 22 of this Act by 31 December 2021, such a vacancy process shall be discontinued at that date unless agreement is reached between the Presbytery of the bounds and the Faith Nurture Forum that the process may be continued thereafter in terms of this Act. For the avoidance of doubt the unamended provisions of this section shall once again apply when the Presbytery has gained final approval in terms of the Presbytery Mission Plan Act (Act VIII 2021) for a Mission Plan covering the vacant charge.

#### 29. **Transmission of Documents**

- (1) After an election has been made the Interim Moderator shall secure from the person appointed a letter of acceptance of the appointment, evidence of Category **O** registration in the form of a certified extract from the Register of Ministry and evidence of membership of the PVG Scheme, as defined in the Safeguarding Act (Act XVI 2018).
- (2) The Interim Moderator shall then without delay transmit the relevant documents to the Presbytery Clerk. These are: the minute of Nomination by the Nominating Committee, all intimations made to the congregation thereafter, the declaration of the election and appointment, the voting-papers, the marked copy of the Register, the letter of acceptance, evidence of Category **O** registration in the form of a certified extract from the Register of Ministry and evidence of membership of the PVG Scheme as defined in the Safeguarding Act (Act XVI 2018). He or she shall also inform the Clerk of the steps taken in connection with the signing of the Call, and shall arrange that, at the expiry of the period allowed for subscription, the Call shall be transmitted by the Session Clerk to the Presbytery Clerk.
- (3) After the person elected has been inducted to the charge the Presbytery Clerk shall:
  - (a) deliver to him or her the approved copy of the Vacancy Schedule referred to in section 10(2) above, and
  - (b) destroy the intimations and voting-papers lodged with him or her in terms of subsection (2) above and ensure that confidential documents and correspondence held locally are destroyed.

#### 30. **Sustaining the Call**



- (1) All of the documents listed in section 29 above shall be laid before the Vacancy Procedure Committee which may resolve to sustain the Call and determine arrangements for the induction of the new minister, subject to (a) a request for the release, if appropriate, of the minister from his or her current charge in terms of this Act and (b) the provisions of section 2 above. The Moderator of the Presbytery shall, if no ordinary meeting of the Presbytery falls before the proposed induction date, call a meeting *pro re nata* for the induction.
- (2) In the event that the matter comes before the Presbytery in terms of section 2 above, the procedure shall be as follows:–
  - (a) The Call and other relevant documents having been laid on the table the Presbytery shall hear any person whom it considers to have an interest. In particular the Advisory Committee shall be entitled to be heard if it so desires, or the Presbytery may ask for a report from it. The Presbytery shall then decide whether to sustain the appointment in terms of subsection (1) above, and in doing so shall give consideration to the number of signatures on the Call. It may delay reaching a decision and return the Call to the Kirk Session to give further opportunity for it to be subscribed.
  - (b) If the Presbytery sustain an appointment and Call to a Graduate Candidate, and there be no appeal tendered in due form against its judgement, it shall appoint the day and hour and place at which the ordination and induction will take place.
  - (c) If the Presbytery sustain an appointment and Call to a minister of the Church of Scotland not being a minister of a parish, or to a minister of another denomination, and there be no ecclesiastical impediment, the Presbytery shall appoint the day and hour and place at which the induction will take place.
- (3) In the event that the Call is not sustained, the Presbytery shall determine either (1) to give more time for it to be signed in terms of section 26 above or (2) to proceed in terms of subsection (1) or (2)(b) or (2)(c) of section 28 above.
- (4) No Call shall be sustained until the following evidence has been laid before the Vacancy Procedure Committee: (i) that the new minister has Category O registration, in the form of a certified extract from the Register of Ministry, and (ii) that the new minister is a member of the PVG Scheme, as defined in the Safeguarding Act (Act XVI 2018).

### 31. **Admission to a Charge**

- (1) When the Presbytery has appointed a day for the ordination and induction of a Graduate Candidate, or for the induction of a minister already ordained, the Clerk shall arrange for an edict in the form of Schedule O to be read to the congregation on the two Sundays preceding the day appointed.
- (2) At the time and place named in the edict, the Presbytery having been constituted, the Moderator shall call for the return of the edict attested as having been duly served. If the minister is being translated from another Presbytery, the relevant minute of that Presbytery or of its Vacancy Procedure Committee agreeing to translation shall also be laid on the table. Any objection, to be valid at this stage, must have been intimated to the Presbytery Clerk at the objector's earliest opportunity, must be strictly directed to life or doctrine and must be substantiated immediately to the satisfaction of the Presbytery, in which case procedure shall be suspended and the Presbytery shall take appropriate steps to deal with the situation that

has arisen. Otherwise the Presbytery shall proceed with the ordination and induction, or with the induction, as hereunder.

- (3) The Presbytery shall proceed to the place of worship where public worship shall be conducted by those appointed for the purpose. The Clerk shall read a brief narrative of the cause of the vacancy and of the steps taken for the settlement. The Moderator, having read the Preamble, shall, addressing him or her by name, put to the person to be inducted the questions prescribed (*See the Ordinal of the Church as authorised from time to time by the General Assembly*). Satisfactory answers having been given, the person to be inducted shall sign the Formula. If he or she has not already been ordained, the person to be inducted shall then kneel, if able to do so, and the Moderator by prayer and the imposition of hands, in which members of the Presbytery, appointed by the Presbytery for the purpose, and other ordained persons associated with it, if invited to share in such imposition of hands, shall join, shall ordain him or her to the office of the Holy Ministry. Prayer being ended, the Moderator shall say, "I now declare you to have been ordained to the office of the Holy Ministry, and in name of the Lord Jesus Christ, the King and Head of the Church, and by authority of this Presbytery, I induct you to this charge, and in token thereof we give you the right hand of fellowship". The Moderator with all other members of Presbytery present and those associated with it shall then give the right hand of fellowship. The Moderator shall then put the prescribed question to the members of the congregation. Suitable charges to the new minister and to the congregation shall then be given by the Moderator or by a minister appointed for the purpose.

*[This subsection is to be construed in conformity with Act III 2004]*

- (4) When an ordained minister is being inducted to a charge, the act of ordination shall not be repeated and the relevant words shall be omitted from the declaration. In other respects the procedure shall be as in subsection (3) above.
- (5) When the appointment is for a limited or potentially limited period (including to a Reviewable Charge, or an appointment in terms of section 20 above) the service shall proceed as in subsections (3) or (4) above except that in the declaration the Moderator shall say "I induct you to this charge on the Basis of [specific Act and Section] and in terms of Minute of Presbytery of date .....".
- (6) After the service the Presbytery shall resume its session, when the name of the new minister shall be added to the Roll of Presbytery, and the Clerk shall be instructed to send certified intimation of the induction to the Session Clerk to be engrossed in the minutes of the first meeting of Kirk Session thereafter, and, in the case of a translation from another Presbytery or where the minister was prior to the induction subject to the supervision of another Presbytery, to the Clerk of that Presbytery.

### **32. Service of Introduction**

- (1) When a minister has been appointed to a linked charge the Presbytery shall determine in which of the churches of the linking the induction is to take place. This shall be a service of induction to the charge, in consequence of which the person inducted shall become minister of each of the congregations embraced in the linking. The edict regarding the induction, which shall be in terms of Schedule O, shall be read in all of the churches concerned. There shall be no other service of induction, but if the churches are far distant from one another, or for other good reason, the Presbytery may appoint a service of introduction to be held in the other

church or churches. Intimation shall be given of such service, but not in edictal form.

- (2) In any case of deferred union or deferred linking the minister elected and appointed shall be inducted “to the vacant congregation of A in deferred union (or linking) with the congregation of B” and there shall be no need for any further act to establish his or her position as minister of the united congregation or of the linked congregation as the case may be. The Presbytery, however, shall in such a case arrange a service of introduction to the newly united congregation of AB or the newly linked congregation of B. Intimation shall be given of such service, but not in edictal form.
- (3) When an appointment has been made to an extra-parochial office wholly or mainly under control of the Church (community ministry, full-time chaplaincy in hospital, industry, prison or university, full-time clerkship, etc.) the Presbytery may deem it appropriate to arrange a service of introduction to take place in a church or chapel suitable to the occasion.
- (4) When an appointment has been made to a parochial appointment other than that of an inducted minister, the Presbytery may arrange a service of introduction to take place within the parish. If ordination is involved, suitable arrangements shall be made and edictal intimation shall be given in terms of Schedule P.
- (5) A service of introduction not involving ordination shall follow the lines of an induction except that instead of putting the normal questions to the minister the Moderator shall ask him or her to affirm the vows taken at his or her ordination. Where the service, in terms of subsection (3) or (4) above, includes the ordination of the minister, the vows shall be put in full. In either case, in the declaration the Moderator in place of “I induct you to .....
- (6) When an appointment is for a limited or potentially limited period (including an appointment in terms of section 20 above) the service shall proceed as in subsection (4) and (5) above and the Moderator in welcoming the new minister shall specify the basis of the appointment.

### 33. **Demission of Status**

If a minister seeks to demit his or her status as a minister of the Church of Scotland, any accompanying demission of a charge will be dealt with by the Vacancy Procedure Committee in terms of section 4 of this Act without further delay, but the question of demission of status shall be considered by the Presbytery itself. The Moderator of Presbytery, or a deputy appointed by him or her, shall first endeavour to confer with the minister regarding his or her reasons and shall report to the Presbytery if there appears to be any reason not to grant permission to demit status. Any decision to grant permission to demit status shall be immediately reported to the Faith Nurture Forum.

### 34. **Guidelines**

- (1) The Faith Nurture Forum and the Legal Questions Committee shall jointly prepare and issue Guidelines for (a) Interim Moderators, (b) Kirk Sessions, (c) Nominating Committees and (d) Advisory Committees, in order to facilitate procedures in vacant congregations and also to expedite specific processes outlined in this Act. Such Guidelines shall be kept under review and shall be updated periodically to reflect current policy and practice.
- (2) The above Guidelines shall be followed by the individuals and bodies named above, who shall only depart from them with due cause and having first sought the advice of the Vacancy Procedure Committee.

### 35. **Miscellaneous**

For the purposes of this Act intimations to congregations may be made (a) verbally during every act of worship, or (b) in written intimations distributed to the whole congregation provided that the congregation's attention is specifically drawn to the presence of an intimation there in terms of this Act.

For the purposes of this Act attestation of all intimations to congregations shall consist of certification thereof by the Session Clerk as follows:—

- (a) Certification that all intimations received have been duly made on the correct number of Sundays shall be sent to the Presbytery Clerk before the service of induction or introduction.
- (b) Certification that any particular intimation received has been duly made on the correct number of Sundays shall be furnished on demand to the Vacancy Procedure Committee or the Presbytery Clerk.
- (c) Intimation shall be made immediately to the Presbytery Clerk in the event that intimation has not been duly made on the appropriate Sunday.

### 36. **Repeals and Amendments**

- (1) Act V 1984 (as amended) is hereby repealed; it is hereby provided that all other legislation prior to this Act shall be construed in conformity with this Act.
- (2) Earlier Acts and Regulations are amended as follows:—
  - (a) In sections 2 and 7 of Act XVIII 1932, delete the latter sentence of section 2 and all of subsection 7(b).
  - (b) In Act IV 1999 delete “Act V 1984 section 25 (3)” and substitute “section 29(3) of Act VIII 2003”.
  - (c) In section 19(2) of Act II 2000 delete “section 2 (3) of Act V 1984” and substitute “section 7 of Act VIII 2003”.
  - (d) In section 9 of Act XV 2002 delete “in terms of section 27 of Act V 1984”.
  - (e) In section 12(i) of Act XIII 2000 and in section 2(i) of Regulations V 2000, delete “sections 6-8 of Act V, 1984” and substitute “section 13 of Act VIII 2003”.
  - (f) In section 2(2) of Act IV 2001, delete “in terms of Act V, 1984 section 27” and “in terms of the said Act V, 1984”.
  - (g) In paragraph 1 of Schedule 3 to Act V 2002, delete “section 13 of Act V 1984” and substitute “section 17 of Act VIII 2003”.
  - (h) In paragraph 2(ii) of Schedule 3 to Act V 2002, delete “Sections 6 to 8 of Act V 1984” and substitute “section 13 of Act VIII 2003”.
  - (i) In section 2 of Act VII 2002, delete “Act V 1984 section 25” and substitute “section 29 of Act VIII 2003”.
  - (j) In section 9 of Act XV 2002, delete “in terms of section 27 of Act V 1984”.
  - (k) In Regulations II 1996 delete reference to Act V 1984 (as amended) and substitute Act VIII 2003.
- (3) Notwithstanding subsection (1) above, the repeal of Act V 1984 as amended shall not affect the operation of the said Act (or Deliverances of the General Assembly in pursuance thereof) prior to the repeal of the said Act, or anything done or suffered under the said Act or Deliverances; and any rights or obligations acquired or incurred thereunder shall have effect as if the said Act had not been repealed.

### 37. **Interpretation**

For the purposes of this Act the Interpretation section (section 1) of Act VII 2003 will apply.

## **SCHEDULES**

### **A NOTICE OF DECISION OF VACANCY PROCEDURE COMMITTEE – Section 2(1)**

#### ***To be read on one Sunday***

Notice is hereby given that the Vacancy Procedure Committee of the Presbytery of ..... proposes [*proposed course of action*]. This action will proceed unless at least four persons, who are either communicant members of this congregation of X [and Y]\* or full members of Presbytery, together or separately submit to the Presbytery Clerk a request for this proposal to be considered at the next meeting of the Presbytery. Any such request must set out the relevant reasons.

You should submit any such request in writing to [*name and postal address of Presbytery Clerk*] by [*date seven days after date of this intimation*].

If four valid requests are received, then [*state the proposed course of action*] will be suspended and the approval of Presbytery will be required.

A ..... B ..... Presbytery Clerk

*\*refer to other congregation(s) if a linked charge*

*NB this intimation is also to be displayed as prominently as possible at the church building for seven days*

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### **B NOTICE CITING A CONGREGATION TO ATTEND – Section 2(5)**

#### ***To be read on one Sunday***

Notice is hereby given that in connection with the [anticipated] vacancy in this congregation of X [and Y]\*, a valid request has been made for the matter of [*here insert action or permission which had been proposed*] to be considered by the Presbytery. [*The proposed course of action*] is in the meantime suspended

The Presbytery will meet to consider this matter at .....on ..... the ..... day of ..... at ..... o'clock. Any member of this congregation of X [and Y]\* may attend that meeting and Presbytery shall hear any person whom it considers to have an interest.

A ..... B ..... Presbytery Clerk

*\*refer to other congregation(s) if a linked charge*

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## **C PREPARATION OF ELECTORAL REGISTER – Sections 14(1) and (2)**

### ***To be read on two Sundays***

Notice is hereby given that in view of the [anticipated] vacancy in this congregation of X [and Y]\*, the Kirk Session is about to make up an Electoral Register. This Electoral Register is a list of those who will be eligible to vote when the time comes to elect a Nominating Committee, and subsequently in the election of a new minister.

If your name and current address are already on the Communion Roll, then you will automatically be placed upon the Electoral Register. You will need to take no further action.

If you are a regular worshipper here, but are still a member of another congregation, and you wish to participate in the election of a minister to this congregation of X [and Y]\*, then you should arrange to hand in to the Session Clerk a valid Certificate of Transference before the Kirk Session meets

If you are a regular worshipper here, and not a member of this or any other congregation, then the Kirk Session can add your name to the Electoral Register as an “adherent”. If you wish the Kirk Session to consider this, you should obtain a form from the Session Clerk, complete it and return it to [him or her] before the Kirk Session meets.

The Kirk Session will meet in ..... on ..... the ..... day of ..... at ..... to make up the Electoral Register  
C ..... D ..... Interim Moderator

*\*refer to other congregation(s) if a linked charge*

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## **D FORM OF ADHERENT’S CLAIM – Section 14(1)**

I, 1 ..... of 2 ....., being a regular worshipper in the Church of ..... and not being a member of any other congregation in Scotland, request to have my name put on the Electoral Register of the congregation of ..... as an adherent.

Date ..... (Signed) .....

*1 Here enter full name in block capitals*

*2 Here enter address in full*

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## **E CONFIRMATION OF ELECTORAL REGISTER – Section 14(3)**

### ***To be read on one Sunday***

Notice is hereby given that the proposed Electoral Register of this congregation of X [and Y]\* has now been prepared.

If you believe that your name should be on the Register, you can ask for confirmation that it has been included immediately after this service [details of provision for this] or from the Session Clerk [details of how the Session Clerk can be contacted].

If your name is not on the proposed Electoral Register, and you believe it should be, you should inform the Session Clerk in writing before the Kirk Session meets to finalise the register on [date] at [place]. You are also welcome to attend that meeting, if you wish to make the case for your name being included.

C ..... D ..... Interim Moderator

*\*refer to other congregation(s) if a linked charge*

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## **F REVISION OF ELECTORAL REGISTER – Section 14(6)**

### ***To be read on two Sundays***

Notice is hereby given that since more than six months have elapsed since the Electoral Register of this congregation of X [and Y]\* was finally made up, it is now proposed that it should be revised.

If you believe that your name ought to be on the Register, you can ask for confirmation immediately after this service [details of provision for this] or from the Session Clerk [details of how the Session Clerk can be contacted].

If you find that your name does not appear, it can be added in the following circumstances:

If your name has been added to the full Communion Roll since the Register was drawn up, then your name will automatically be placed upon the Electoral Register on its revision. You will need to take no further action.

If you are a regular worshipper here, but are still a member of another congregation, then you should arrange to hand in to the Session Clerk a valid Certificate of Transference before the Kirk Session meets

If you a regular worshipper here, and not a member of this or any other congregation, then the Kirk Session can add your name to the Electoral Register as an “adherent”. If you wish the Kirk Session to consider this, you should obtain a form from the Session Clerk, complete it and return it to [him or her] before the Kirk Session meets.

The Kirk Session will meet in ..... on ..... the ..... day of ..... at ..... to revise the Electoral Register

C ..... D ..... Interim Moderator

*\*refer to other congregation(s) if a linked charge*

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## **G ELECTION OF NOMINATING COMMITTEE – Section 15(1)**

### ***To be read on two Sundays***

Notice is hereby given that a meeting of this congregation of X [and Y]\* will be held in the Church [or other arrangement may be given here] on Sunday ..... at the close of morning [or other main occasion of] worship for the purpose of appointing a Nominating Committee. The task of the Nominating Committee will be to nominate one person to this congregation of X [and Y]\* to be the new minister.

At that meeting, the congregation shall be invited to elect [number of persons] people, who are on the Electoral Roll of this congregation of X [and Y]\*, to serve on the Nominating Committee. If you wish to propose anyone to serve on the Committee you may do so at the meeting providing the person has indicated a willingness to serve.

C ..... D ..... Interim Moderator

*\*refer to other congregation(s) if a linked charge*

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## **H NOTICE OF NOMINATION – Section 22(2)**

### ***To be read on two Sundays***

At a meeting held at..... on ....., the Nominating Committee chose the person who they wish to propose to this congregation of X [and Y]\* to be our new minister. The name of the person proposed is 1 .....

Arrangements have been made for [give name again], to conduct public worship in this Church on Sunday the ..... day of ..... at ..... o'clock.

Immediately after that service, there will be a vote on whether or not [Name] should be appointed as the new minister of this congregation of X [and Y]\*. Anyone whose name appears on the Electoral Register of this congregation of X [and Y]\* shall be entitled to vote. No-one else shall be entitled to vote.

C ..... D ..... Interim Moderator

*\*refer to other congregation(s) if a linked charge*



1 The name and status of the person should at this point be entered in full

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**I VOTING-PAPER – Section 24(1)**

FOR Electing [Name]	
AGAINST Electing [Name]	

Directions to Voters – If you are in favour of electing [Name] put a cross (x) on the upper right-hand space. If you are not in favour of electing [Name] put a cross (x) in the lower right-hand space. Mark your voting-paper in this way with a cross, and put no other mark on your voting-paper or your vote may not be counted.

*Note: The Directions to Voters must be printed prominently on the face of the voting-paper.*

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**J DECLARATION OF ELECTION RESULT – Section 24(6)**

I hereby declare the results of the voting for the election and appointment of a minister to the vacant charge of ..... 1 to be as follows.

FOR Electing [Name]: [No of votes]  
AGAINST Electing [Name]: [No of votes]

**EITHER**

(1) Therefore, [Name] has accordingly been elected and appointed as the new minister subject to the approval of Presbytery

**OR**

(2) In consequence of this vote there has been a failure to elect. The Nominating Committee is deemed to have been discharged. *[Continue in terms of Schedule G if appropriate.]*

Date .....

C ..... D ..... Interim Moderator

1 Here enter details

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**K THE CALL – Section 26(1)**

## **Form of Call**

We, members and adherents of the Church of Scotland and of the congregation known as ..... 1, being without a minister, address this Call to be our minister to you, *[Name]*....., of whose gifts and qualities we have been assured, and we warmly invite you to accept this Call, promising that we shall devote ourselves with you to worship, witness, mission and service in this parish, and also to the furtherance of these in the world, to the glory of God and for the advancement of His Kingdom.

*1 Here enter details*

## **Paper of Concurrence**

We, persons associated with the congregation of the Church of Scotland known as ..... 1 concur in the Call addressed by that congregation to *[Name]*..... to be their minister.

*1 Here enter details*

*Note: The Call and Paper of Concurrence should be dated and attested by the Interim Moderator before they are transmitted to the Clerk of the Presbytery.*

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## **L SUBSCRIBING THE CALL – Section 26(1)**

### ***To be read on at least one Sunday***

Notice is hereby given that this congregation of X [and Y]\* has elected *[Name]* to be our new minister and a Call to the said *[Name]* has been prepared. This Call will lie in *[Place]*..... from..... the .....day of *[Month]*..... until *[Date which is at least eight days later]*, between the hours of ..... and ..... . During that time any person whose name is on the Electoral Register of the congregation may sign the Call in person or by means of a mandate.

If a mandate is to be used, the relevant form may be obtained from the Session Clerk.

A paper of Concurrence will also be available for signature by any person who is connected with the congregation but whose name is not on the Electoral Register of the congregation. Children are also welcome to add their names to this paper.

C ..... D ..... Interim Moderator

*\*refer to other congregation(s) if a linked charge*

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## **M MANDATE TO SIGN CALL – Section 26(2)**

I,<sup>1</sup> ..... of <sup>2</sup>....., being a person whose name is on the Electoral Register of the congregation, hereby authorise the Session Clerk, or other member of Session, to add my name to the Call addressed to [Name] to be our new minister.

(Signed) .....

*1 Here enter full name in block capitals*

*2 Here enter address in full*

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## **N CITATION IN CASE OF NOMINATION BY PRESBYTERY – Section 28(c)(iii)**

### ***To be read on one Sunday***

Notice is hereby given that [Name], whom the Presbytery has appointed to be minister of this congregation of X [and Y] \* will conduct public worship in the Church on Sunday the ..... day of ..... at ..... o'clock.

A Call addressed to the said [Name] will lie in [Place]..... from ..... the ..... day of ..... between the hours of ..... and ..... during the day and between the hours of ..... and ..... in the evening, until [Date which is at least eight days later]. During that time any person whose name is on the Electoral Register of the congregation may sign the Call in person or by means of a mandate.

If a mandate is to be used, the relevant form may be obtained from the Session Clerk.

A paper of Concurrence will also be available for signature by any person who is connected with the congregation but whose name is not on the Electoral Register of the congregation. Children are also welcome to add their names to this paper.

The Presbytery will meet to deal with the appointment and Call at ..... on ..... the ..... day of ..... at ..... o'clock. Any member of the congregation may attend that meeting.

A ..... B ..... Presbytery Clerk

*\*refer to other congregation(s) if a linked charge*

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## **O NOTICE OF INDUCTION – Section 31(1) and section 32(1)**

### ***To be read on two Sundays***

Notice is hereby given that the Presbytery of ..... has received a Call from this congregation of X [and Y]\* addressed to ..... [Name] to be the new minister. This Call has been sustained as a regular Call, and has been accepted by him/her1.

The Presbytery, having judged the said .....[Name] qualified for the ministry of the Gospel and<sup>2</sup> for this charge, has resolved to proceed to his/her [ordination and] induction<sup>3</sup> on .....[day of the week] the .....[date] day of .....[month] at .....[time] o'clock. The only circumstance in which this would not occur is if an objection occurs which may reasonably impede it.

Notice is given that if any member of this congregation of X [and Y]\*, has objection to the life or doctrine of the said ..... [Name] you should intimate your objection at the earliest opportunity to the Presbytery Clerk. If you do this, you will also need to submit to the Presbytery Clerk appropriate evidence to substantiate your objection.

The Presbytery is to meet at .....[time] on .....[date as above]. If an objection is not notified in advance but is first brought at that meeting the objector must satisfy the Presbytery that there was no earlier opportunity to bring the objection to the attention of the Presbytery Clerk.

Unless a substantiated objection is made which is then upheld, the Presbytery shall proceed to [ordination and] induction<sup>3</sup> of the said .....[Name] without further delay.

By order of the Presbytery

A.....B.....Presbytery Clerk

1 Add, where, appropriate, "and his/her translation has been agreed to by the Presbytery of....."

2 Omit "for the ministry of the Gospel and" if this minister to be inducted has been ordained previously

3 Omit, where appropriate, "ordination and"

*\*refer to other congregation(s) if a linked charge*

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## **P NOTICE OF ORDINATION IN CASE OF INTRODUCTION – Section 32(4)**

### ***To be read on two Sundays***

Notice is hereby given that a service of introduction is to take place because [*narrate circumstances requiring service of introduction*]. The Presbytery has found that the said [Name] has been regularly appointed and is qualified for the ministry of the Gospel and for the said appointment. The Presbytery has resolved to proceed to his or her ordination to the Holy Ministry and to his or her introduction as [*specify appointment*].

This ordination and introduction will take place on ..... the ..... day of ..... at ..... o'clock, and will proceed unless an objection occurs which may reasonably impede it.

Notice is given if any member of this congregation of X [and Y]\* has anything to object to in the life or doctrine of the said [Name], you may appear at the Presbytery meeting at .....

on ..... the ..... day of ..... at ..... o'clock to state your objection. Any objection which is made must be substantiated.

Unless a substantiated objection is made which is then upheld, the Presbytery will proceed to ordination and introduction of the said .....[Name] without further delay.

By order of the Presbytery

A ..... B ..... Presbytery Clerk  
*\*refer to other congregation(s) if a linked charge*



**XIII. AUXILIARY MINISTRY ACT (ACT XIII 2003) (AS AMENDED BY ACTS X AND XI 2004 AND I, VII 2006, X 2007, IX 2011, XVII 2012, XII 2016, AND II AND VI 2017)**

*Edinburgh, 22 May 2003 Session VII*

The General Assembly enact and ordain as follows:–

**1. Definitions**

Section 1(a) to (c) and (f) to (i) of Act X 2004 shall apply to the Auxiliary Ministry. In addition the following definitions shall apply:–

*The Committee* is the Committee which the Faith Nurture Forum may, from time to time, charge with responsibility for overseeing Candidates for the Auxiliary Ministry;

*Presbytery of the bounds* is the Presbytery containing the larger or largest part of the area of the Auxiliary Minister's responsibilities.

**2. Appointments and Reviews**

(a) An Auxiliary Minister may serve in one or more Presbyteries of the Church of Scotland, undertaking such designated appointments as the Presbyteries may from time to time determine after approval from the Kirk Session of any congregation to which an appointment is proposed.

(b) The conditions regulating each designated appointment shall be defined in writing by the Presbytery of the bounds in consultation with the Auxiliary Minister and all interested parties including relevant Kirk Sessions.

(c) The Presbytery of the bounds shall be entitled at any time to carry out a review of any designated appointment, and in the light of such review to (a) suspend or terminate the appointment; (b) renew the appointment; (c) vary the conditions regulating the appointment.

(d) 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 II 2017).

**3. Relationship with Courts of the Church**

(a) An Auxiliary Minister shall be associated with the Kirk Session of any Parish or Parishes within which he or she is to operate. He or she shall be entitled to membership of Presbytery. Where an Auxiliary Minister serves in more than one Presbytery, he or she shall have membership of the Presbytery of the bounds. Where there is an equal division of responsibilities between designated appointments, the Auxiliary Minister shall choose the Presbytery of which he or she is a member but shall be subject to both or all Presbyteries.

(b) On retirement from an appointment, an Auxiliary Minister shall be subject to the provisions of section 14 of Act III 2000 as amended.

**4. In-Service Training**

While in active service, Auxiliary Ministers shall attend those in-service courses provided by the Faith Nurture Forum deemed appropriate for Auxiliary Ministers. Such attendance shall be at a level of at least one training course in each two-year period.

**5. Remuneration**

- (1) Auxiliary Ministry is a non-stipendiary form of ministry and no remuneration shall be offered which is directly related to the appointment as an Auxiliary Minister.
- (2) An Auxiliary Minister shall be entitled to a regular Pulpit Supply Fee when conducting worship other than in his or her regular appointment.
- (3) Remuneration for any other appointment, for example as a Locum or in chaplaincy which the Presbytery has approved in addition to the designated appointment, shall be at the normal rates set by the Church from time to time.
- (4) Reasonable expenses incurred wholly and necessarily in the course of duties shall be reimbursed at the rates printed annually in the report of the Forum to the General Assembly.
- (5) The Faith Nurture Forum shall offer to every Auxiliary Minister in a designated appointment an annual resource grant at an amount to be fixed annually by the Forum and reported to the General Assembly. The grant will be available for the purchase of resources (eg. books; computer hardware or software; periodicals) to be used in the fulfilment of ministerial duties. The grant shall be awarded on the production of receipts. The Forum shall be entitled to seek contributions towards such grants from the Presbytery or Presbyteries designating the Auxiliary Minister's appointment.

**6. Transfer to the Full-Time Ministry**

In a situation where an Auxiliary Minister desires to transfer to the Ordained National Ministry, the following procedure shall apply:

- (a) The Auxiliary Minister shall inform the Forum of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;
- (b) Having established eligibility, the Forum shall arrange for the Auxiliary Minister to undergo an Assessment Panel in the form of an interview with a psychologist and an interview with two national assessors;
- (c) At the interviews attention shall be paid to the Auxiliary Minister's reasons for his or her wish to transfer, his or her gifts of leadership shall be assessed and his or her understanding of ministry shall be examined;
- (d) If the person is accepted by the Assessment Panel as a prospective candidate for the Ordained National Ministry then that person will thereafter follow the appropriate procedure under Act X 2004, including, though not restricted to, the requirement for nomination by Presbytery as a candidate for the Ordained National Ministry in terms of sections 7 to 11 of that Act and such requirements for education and training as may be determined by the Forum, having regard to all the circumstances in each particular case;
- (e) If the person is not accepted by the Assessment Panel as a prospective candidate for the Ordained National Ministry then that person may apply again to transfer to Ordained National Ministry, up to three times in total, but that number shall be reduced by any previous applications made at any time for Ordained National Ministry or for transfer to Ordained National Ministry. A fourth application shall be possible only with the prior approval of the Committee.
- (f) If the person is not at any time accepted by the Assessment Panel as a prospective candidate for the Ordained National Ministry then such decision shall not affect the person's status as an Auxiliary Minister.



- (g) A decision of the Assessment Panel not to accept a person as a prospective candidate for the Ordained National Ministry shall be final and binding on the applicant, subject only to appeal to the Ministries Appeal Panel in terms of Act VI 2007 on the following grounds: (a) an error in Church law; (b) breach of the principles of natural justice or material irregularity of process; and (c) decision influenced by incorrect material fact. The intention to appeal shall be intimated by the applicant to the Forum within 21 days of the Assessment Panel's decision.

7. **Repeal**

Act III 1987 and Regs III 1987 (as amended) are hereby repealed.



## **V. INTIMATION OF APPEALS ACT (ACT V 2004) (AS AMENDED BY ACT V 2012, ACT III 2013 AND ACT IX 2022)**

*Edinburgh, 15 May 2004, Session I*

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

### **Right to appeal from decision**

1. As from the date of this Act, and subject to the exclusions and qualifications in sections 3 and 4, a person with a legitimate interest and aggrieved by a decision of a Kirk Session or Financial Board may within fourteen days of the decision intimate an appeal against that decision by Note of Appeal. The Note of Appeal shall set out in brief specific numbered propositions the grounds on which the appeal is taken. Such an appeal can be brought only on one or more of the following grounds: (a) an error in Church law; (b) breach of the principles of natural justice or material irregularity of process; (c) decisions influenced by incorrect material facts; and, (d) any sanction imposed is excessive. The Appellant shall intimate the appeal by delivering the Note of Appeal to the clerk of the court against whose decision the appeal is taken and the Presbytery Clerk.
2. The Clerk of a court shall advise persons present at the hearing at which the court takes the decision of their right to appeal under this Act.

### **Exclusions and qualifications**

3. The right of appeal conferred in section 1 shall not apply to the members of the court which took the decision in question. Such persons will have the right to dissent and complain.
4. The right of appeal conferred in section 1 does not apply where the Acts and Regulations of the General Assembly specifically provide another appeal procedure.

### **Interim regulation**

5. The court against whose decision an appeal is taken under this Act shall have power, on their own initiative or on the application of an interested person, to regulate matters relating to the decision, including giving interim effect to the decision, pending the determination of the appeal.

### **Interpretation**

6. "Financial Board" means the body responsible for managing the finances of a congregation, including a Congregational Board, Deacons' Court, Committee of Management or Kirk Session.



**VI. KIRK SESSION MEETINGS ACT (ACT VI 2004) (AS AMENDED BY ACT I 2011)**  
*Edinburgh, 15 May 2004, Session 1*

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

**General Provisions**

1. For all purposes except as otherwise provided in this Act, the minister of a charge is the Moderator of the Kirk Session and in particular has responsibility for the calling of meetings and for the duties of the Moderator
  - (a) in relation to discipline as outlined in the Basis and Plan of Union of 1929;
  - (b) in respect of the ordination of elders in terms of Act X 1932 (as amended); and
  - (c) in relation to the admission of communicants to Church membership upon profession of faith.
2. Nothing in this Act shall affect the functions of the minister as defined in sections 4 - 14 of the Parish Ministry Act (Act II 2018) and of the Kirk Session as defined in section 37 of the Church Courts Act (Act III 2000) (as amended) or as each are contained in the common law and custom of the Church; and nothing shall affect the constitution of the Kirk Session as consisting of the minister and elders.
3. The provisions of this Act shall not apply to Kirk Sessions in units of HM Forces (Act VIII 1952) or to New Charges not yet raised to full status (Act XIII 2000).

**Part I Elder or member of the Diaconate moderating Kirk Session meeting**

4. With the approval of the minister and of the Kirk Session (at a previous meeting thereof), or upon the instruction of a superior court, another current member of the Kirk Session, a member of the Diaconate who is associated with but not an appointee of the Kirk Session, or a minister associated with it may moderate any meeting of the Kirk Session on a date appointed by the Kirk Session. No status, powers, privileges or responsibilities are conferred upon any such elder, deacon or minister except to the extent necessary to act as Moderator of the meeting, and to this extent such an elder, deacon or minister shall bear all the responsibilities normally borne by the minister for the orderly conduct of business and for the observance of the common law of the Church and the legislation, regulations and Deliverances of its superior courts. Whilst moderating a meeting of the Kirk Session, an elder, or a deacon or minister associated with the Kirk Session, shall have a casting vote but no deliberative vote.
5. No elder shall be appointed to moderate any meeting of a Kirk Session who has not satisfied the Presbytery of the bounds that he or she has adequately completed a course of training in Church law and procedure provided by the Legal Questions Committee and kept such training up to date, with the costs of such training borne by the congregation.
6. For the avoidance of doubt, more than one elder in a Kirk Session may be trained and utilised for the purposes of this Act.
7. The Session Clerk, if a member of the Kirk Session, shall not moderate a meeting as

clerk, but may be appointed in terms of this Act in his or her own right, and shall normally arrange for the Minutes of the meeting to be taken by a substitute clerk.

8. On those occasions on which the minister is present at a Kirk Session meeting but not moderating it, he or she shall have a seat in the Kirk Session and for this purpose shall have capacity separate from that of minister of the parish or member of the Presbytery. For the avoidance of doubt, since the minister is not a ruling elder he or she cannot be Commissioned as such to the Presbytery or the General Assembly.
9. The approval of the minister and the Kirk Session in terms of section 4 above may be a standing approval for a fixed period in respect of any meeting during that period; and the minister or the Kirk Session may rescind approval in terms of this Act at any time. The Presbytery in the exercise of its superintendence over the Kirk Session may remove the approval or revoke the instruction in terms of section 4 above, whether originally given by the Kirk Session or by the Presbytery.

## **Part II Absence of Minister from Kirk Session meeting**

10. It shall be lawful for the minister to authorise a Kirk Session meeting to be held in his or her absence and moderated by a member of the Kirk Session or a minister or deacon associated with it (subject to the provisions of Part I of this Act), all subject to the following provisions.
11.
  - (1) Such authorisation shall be in writing to the minister, deacon or elder acting as Moderator of the meeting, and shall specify the meeting or meetings to which the authorisation relates and the business to be transacted, and the facts shall be recorded in the Minutes of the Kirk Session and intimated to the Presbytery Clerk.
  - (2) As the Kirk Session consists of the minister and elders, any decision taken in the absence of the minister, being a decision of which the minister did not have notice in advance of the meeting, shall not take effect until it has been agreed in writing by the minister (the written agreement to be delivered as soon as possible to the Session Clerk) or ratified at a meeting at which the minister is present. In either event, the fact shall be recorded in the Minutes of the Kirk Session.
12. In implementation of the provisions of section 11(2) above, or in any other circumstance, it shall be competent for such a meeting of the Kirk Session to request the presence of the minister at a subsequent meeting, and to give powers to the Session Clerk to arrange that meeting if necessary.
13. It shall be competent for a minister to give authorisation, for a single occasion or on a standing basis, to an elder appointed in terms of section 4 above or any other minister of the Church or any member of the Diaconate who is not an appointee of the Kirk Session, to moderate a Kirk Session meeting in circumstances when the minister is unexpectedly unable to attend a meeting and unable to give permission in terms of sections 10 and 11(1) above; but this authorisation shall be subject to the terms of section 11(2) above.
14. In the absence of the minister, the *quorum* of the Kirk Session shall be three elders.

### **Miscellaneous**

15. All Acts and Regulations of the General Assembly shall be interpreted consistently with this Act except as herein provided.
16. Notwithstanding the foregoing it shall be competent for a minister of another Church to act as Moderator of a Kirk Session in an ecumenical parish or united congregation or other association provided always that such minister is a member of a team along with a minister or ministers of the Church of Scotland in that ecumenical parish or united congregation or other association and that the arrangement for such minister to moderate a Kirk Session shall be incorporated in or added to the constitution of and shall apply only to such ecumenical parish or united congregation or other association and shall have the duly minuted approval of the Presbytery of the bounds.
17. The provisions of this Act shall apply *mutatis mutandis* to the chairing of a meeting of the congregation.
18. The provisions of this Act shall apply *mutatis mutandis* where the Moderator of the Kirk Session (as defined in section 1 above) is an interim Moderator, whether or not he or she is a minister.
19. For the avoidance of doubt and throughout this Act, the word 'deacon' refers to members of the Diaconate and not to members of Deacons' Courts.

### **Amendments and Repeals**

20. Act II 1984 anent Presbytery Visits to Congregations (as amended) is hereby further amended by the addition in section 7, after 'office-bearers', of the words ', any elder or deacon currently authorised to moderate meetings of the Kirk Session'.
21. Act X 1992 anent Moderators of Kirk Sessions is hereby repealed.
22. Section 34 of Act III 2000 (Consolidating Act anent Church Courts) is hereby repealed.





**X. SELECTION AND TRAINING FOR FULL-TIME MINISTRY ACT (ACT X 2004) (AS AMENDED BY ACTS II, X 2005, III 2007, VI 2009, VIII 2011, XI 2014, IV 2015, XIV 2016, II 2017, XI 2018, I AND III 2019, IX AND XV 2020, XIV 2022 AND ACT V 2023)**  
*Edinburgh, 20 May 2004, Session VII*

The General Assembly hereby enact and ordain as follows:

**Definitions**

1. In this Act the following definitions apply:
  - (a) “The FAPLT” is the General Assembly’s Faith Action Programme Leadership Team.
  - (b) *This definition was repealed by Act XIV 2022.*
  - (c) “The Assessment Conference” is the body of trained Assessors to which the FAPLT delegates authority to assess the calling and fitness of applicants for all forms of ministry (in terms of 6(1)), and to accept as Prospective Candidates those deemed appropriate.
  - (d) “Ministry” is the full-time ministry of inducted parish ministers, and other posts requiring the same training and qualifications.
  - (e) *This definition was repealed by Act XI 2014.*
  - (f) “Applicants” are persons who are seeking to be recognised as Candidates for the ministry.
  - (g) “Prospective Candidates” are persons who have been accepted by the FAPLT at an Assessment Conference and who are awaiting the outcome of their application to Presbytery for nomination.
  - (h) “Candidates” are persons who have been both accepted by the FAPLT and nominated by their Presbytery. The term “Candidate” may not be used of or by any person who has yet to be, or who has failed to be, nominated by Presbytery.
  - (i) “Probationers” are Candidates currently undertaking the full-time probationary placement of fifteen months described in section 17(1).
  - (j) “Graduate Candidates” are those who have completed their training and received Exit Certificates in terms of section 22, but who have not yet been ordained. The term is to be applied without limit of time to anyone in this situation.
  - (jj) “Candidature” means the whole time during which a person is a Candidate (including the period during which they are a Probationer).
  - (k) “Accredited institutions” are academic institutions accredited by the FAPLT for the academic formation of Candidates.
  - (l) “Recognised institutions” are academic institutions recognised by the FAPLT for the purposes of section 12(1)(c) and sub-section 12(1)(f)(ii) below.
  - (m) “UK State Pension Age” means a person’s UK State Pension Age as determined at the relevant time by the UK Government’s calculations.<sup>3</sup>

**Discernment conversation and Initial Screening process**

2. (1) A person wishing to apply for the Ministry of the Church of Scotland shall have a discernment conversation with a staff member of the FAPLT’s People and Training Team to determine how they will proceed, and should they subsequently make application, this will be followed by an Initial Screening process arranged by the FAPLT.

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<sup>3</sup> *Ascertained currently by the calculator found on the gov.uk website.*

- (2) A person deemed ready to proceed after that screening process shall be entitled to apply in terms of section 4 to be recognised as a Candidate for the Ministry. Any person who makes such an application shall be known as an Applicant.
- (3) A person who is not deemed ready to proceed after that screening process must wait a period of between one and three years, as notified to that person by the FAPLT in writing, before they may again participate in an Initial Screening process.
- (4) The outcome of each Initial Screening process shall be final and not subject to any form of review or appeal.
- (5) The provisions of this section are subject to those of section 3.

### **Age, Time and Membership Limits for Applicants**

3. (1) The FAPLT will not consider an application from any person who has not attained the age of eighteen years by the date on which the FAPLT receives the application.
- (2) The FAPLT will not normally consider an application from any person who has not been either a member or adherent of the Church of Scotland, or who has not been actively involved in a congregation of the Church of Scotland, or who has not been a member of a denomination belonging to the World Communion of Reformed Churches (WCRC), in any case for a period of 3 years immediately prior to receipt of the application.
- (3) The FAPLT will not consider an application from any person who in all normal circumstances could not complete the prescribed course before 31 December in the year which is 10 years before the calendar year in which that person will reach UK State Pension Age. The acceptance of a Candidate who has delayed commencement of the prescribed course will be discontinued if in all normal circumstances that course could not be completed before 31 December in the year which is 10 years before the calendar year in which that Candidate will reach UK State Pension Age.
- (4) The acceptance of a Candidate may be reviewed by the FAPLT if the prescribed course has not been commenced within three years of acceptance.

### **Submission of Application**

4. (1) The FAPLT will, on request, issue to each Applicant who has fulfilled the requirements as set out in sub-section 2(2) and section 3 the relevant application, which shall be completed by the Applicant and sent to the FAPLT by the date determined and supplied by the FAPLT.
- (2) The FAPLT will inform Presbyteries of Applicants within their bounds, the appropriate Presbytery being determined according to section 8 of this Act.

### **Period of Discernment and Local Review**

5. (1) Following the FAPLT's receipt of their application, the Applicant will enter a period of discernment with a Mentor. During the period of discernment, the Applicant and the Mentor shall explore together the nature of the Applicant's call and gifting. The period of discernment shall last for three to six months. The Mentor will be chosen by the FAPLT and shall undertake such training as may from time to time be specified by the FAPLT. The Mentor shall be responsible for supervising the period of discernment according to the guidelines and standards established by the FAPLT, and shall produce assessment materials as required using such *Indicators for Assessment* document as may be from time to

- time in use by the FAPLT. During the period of discernment the Applicant shall also meet regularly with a representative (or representatives) of Presbytery.
- (2) At the end of the period of discernment the Applicant shall proceed to a Local Review. The Local Review will be undertaken by a group consisting of a National Assessor appointed by the FAPLT, the Mentor and a representative appointed by the Presbytery. In the event that one of the three individuals undertaking the Local Review cannot attend the Local Review, it may still proceed if the Applicant consents.
  - (3) In addition, before the end of a period of discernment, the Presbytery or the FAPLT may require that an early Local Review takes place. Such a Review shall be undertaken by the same group as specified in section 5(2) but may only reach a decision in terms of section 5(4) (ii), (iii) or (iv). Sections 5(5) and 5(6) shall still apply.
  - (4) Subject to the provisions of section 5(3), arising out of the Local Review, one of the following written decisions shall be reported by the Review to the FAPLT:
    - (i) That the Applicant is ready to proceed to National Assessment in terms of section 6 (or in the case of the Readership, to proceed to training for the Readership);
    - (ii) That the Applicant should undergo a further period of discernment of such length as may be determined by the Local Review before a decision to proceed to National Assessment can be made;
    - (iii) That the Applicant is not yet ready to proceed to National Assessment in terms of Section 6;
    - (iv) That the Applicant is not suitable to proceed to National Assessment in terms of section 6.
  - (5) Applicants in respect of whom a decision is made in terms of section 5(4)(iii) shall be subject to the terms of section 6A below.
  - (6) Applicants in respect of whom a decision is made in terms of section 5(4)(iv) may have a right of appeal in terms of section 6 below, subject to the terms of section 6B.
  - (7)
    - (i) All materials received by the FAPLT from the Local Review in terms of sub-section 5(4) shall be available to those making consideration in terms of sub-section 6(1).
    - (ii) No individual shall serve as an Assessor for the same Applicant more than once.

### **National Assessment**

6.
  - (1) National Assessment shall consist of a conference at which there shall be careful consideration of the Applicant's character and beliefs, vocation, motivation and general suitability for ministry in the Church of Scotland. The conference shall normally be an in-person residential event but the FAPLT reserves the right to hold an Assessment Conference online should circumstances make this necessary or desirable. At the Assessment Conference a decision shall be made as to whether or not the Applicant shall be accepted as a Prospective Candidate for the Ministry and the Presbytery shall be informed of the decision.
  - (2) All Applicants who attend an Assessment Conference shall receive, as part of their training and development, feedback in the form of a report.
  - (3) An Applicant who is accepted as a Prospective Candidate shall, following Assessment Conference, undergo a medical check and a Disclosure Scotland

check in the form prescribed by the FAPLT and may only proceed as a Prospective Candidate if these checks are, in the opinion of the FAPLT, satisfactory. There shall be no appeal against the FAPLT's decisions on these matters.

- (4) An Applicant who has not been accepted as a Prospective Candidate shall be subject to the terms of section 6A below.
- (5) An Applicant who has not been accepted at Local Review in terms of a decision under section 5(4)(iii) or (iv) or who has not been accepted as a Prospective Candidate by an Assessment Conference may have the right to appeal to the Ministries Appeal Panel, subject to the provisions of section 6B. Notification of the intention to appeal shall be made to the FAPLT and to the Principal Clerk within 14 days of the date upon which the Local Review or the Assessment Conference's decision, as the case may be, was intimated to the Applicant. At the Appeal Hearing the Applicant shall be entitled to appear either online or in person, as determined by the FAPLT, and to address the Panel. They may be accompanied by a companion, who shall not be entitled to speak to the Panel, but who may confer with the Applicant. A representative of the FAPLT shall also appear to present the case for the decision under appeal. All parties will be in possession of the reports from the Local Review and/or the Assessment Conference, as the case may be.
- (6) An appeal to the Ministries Appeal Panel can only be brought on one or more of the following grounds: (a) that in the course of the Local Review or Assessment Conference there were irregularities in the process, (b) that the final decision of the Local Review or Assessment Conference was influenced by incorrect material fact, or (c) that the Local Review or Assessment Conference acted contrary to the principles of natural justice.
- (7) The outcome of an appeal shall be either to uphold the decision of the Local Review or the Assessment Conference, as the case may be, or to annul that decision, in which case sub-sections (8) and (9) below will apply.
- (8) If the outcome of the appeal is to annul a decision, whether at Local Review or Assessment Conference, the person shall be treated as if they had not attended that Local Review or Assessment Conference, as the case may be, and shall be entitled to enter the Assessment process again on one occasion only at the stage of attending one further Local Review (and, if accepted there, one further Assessment Conference) or one further Assessment Conference, as the case may be. Such re-entry into the process must commence within one year of the appeal decision and shall be permitted notwithstanding the terms of section 3(3) of this Act. Any further "non-accept" decision on that next occasion at either stage shall terminate that person's eligibility to enter the Assessment process under this Act and there shall be no further right of appeal.
- (9) If the outcome of the appeal is to uphold the decision of the Local Review or the Assessment Conference, as the case may be, that shall terminate the Assessment process for that person and they may not re-enter into it at any time.

#### **Opportunities to become a Prospective Candidate**

- 6A. (1) A person applying under this Act shall have three opportunities in total to progress through Initial Screening, Local Review and Assessment Conference to become a Prospective Candidate. Each time the person is not accepted shall count as one "non-accept" decision. Once a total of three "non-accept" decisions

- have occurred, no further entry into the Assessment process, at any stage, will be possible for that person, save that a fourth application may be submitted only with the prior approval of the FAPLT. A person will however have rights of appeal as set out in section 6 above, subject to the terms of section 6B.
- (2) Following a “non-accept” decision at any stage, a person must wait for the period specified by the FAPLT, being a minimum period of one year, before being assessed again.
  - (3) After any “non-accept” decision at any stage, a person who chooses to re-enter the Assessment process shall start again at section 2 ie at the stage of discernment conversation and Initial Screening.
  - (4) For the purpose of this section, a decision at Local Review in terms of section 5(4)(iii) and also section 5(4)(iv) would each count as a “non-accept” decision.

**Appeal at third “non-accept” decision only unless age-barred**

- 6B. A person shall have the right to appeal to the Ministries Appeal Panel as follows:
- (a) following a third “non-accept” decision, whether that is at Initial Screening, Local Review or Assessment Conference, or
  - (b) following a first or second “non-accept” decision where the person would thereafter be age-barred in terms of section 3(3) from pursuing a fresh application for Assessment,
- For the avoidance of doubt, in no other circumstances shall an appeal shall be possible after a first or second “non-accept” decision.”

**Nomination by the Presbytery**

7. A Prospective Candidate seeking nomination by the appropriate Presbytery as a Candidate for the Ministry of the Church of Scotland shall apply in writing to that Presbytery as soon as, but not before, the FAPLT indicates acceptance as a Prospective Candidate for the Ministry.
8. Application for nomination shall normally be made to the Presbytery within whose bounds is situated the congregation of which the Prospective Candidate is a communicant member. Where a Prospective Candidate is not yet a communicant member of the Church of Scotland and does not reside within the bounds of any of the Presbyteries of the Church of Scotland, intimation of intention to seek a Presbytery’s nomination shall be made in the first instance to the Presbytery of Edinburgh. With the written agreement of that Presbytery such an application may at the appropriate juncture be considered by the Presbytery within whose bounds is situated the University at which the Prospective Candidate proposes to study, or by the Presbytery within whose bounds they fix their residence, always provided that nomination does not precede communicant membership of the Church of Scotland.
9. If satisfied with the Prospective Candidate’s character and beliefs, vocation, motivation and general suitability, the Presbytery shall then nominate him or her as a Candidate for the Ministry and shall give notice of such nomination to the FAPLT forthwith.
10. (1) A Prospective Candidate who has been refused nomination by the Presbytery has the right of appeal to the Ministries Appeal Panel. The Prospective Candidate may in any event submit a re-application for nomination on up to two

further occasions, provided that at least one year elapses between each application.

- (2) Notification of the intention to appeal to the Ministries Appeal Panel shall be made to the FAPLT and to the Principal Clerk within 14 days of the date upon which the Presbytery's decision was made. At the Appeal Hearing the Prospective Candidate shall be entitled to appear either online or in person, as determined by the FAPLT, and to address the Panel. They may be accompanied by a companion, who shall not be entitled to speak to the Panel, but who may confer with the Prospective Candidate. Such an appeal can only be brought on one or more of the following grounds: (a) that there were irregularities in the process, (b) that the final decision was influenced by incorrect material fact, or (c) that the Presbytery acted contrary to the principles of natural justice.

11. *Deleted by Act IX 2020.*

### **The Course**

12. (1) Immediately following acceptance as a Candidate, each Candidate shall, for the purposes of section 13(a) below, have a course prescribed by the FAPLT from amongst the following Courses:
  - (a) Course A shall be followed by Candidates who possess a degree (or equivalent qualification recognized by the FAPLT for that purpose) in a discipline other than theology; and shall consist of three years' full-time undergraduate study at an accredited institution leading to the attainment of the BD degree, subject to the provisions of section 14 below.
  - (b) Course B shall be followed by Candidates who do not possess a degree (or equivalent qualification recognized by the FAPLT for that purpose); and shall normally consist of four years' full-time undergraduate study at an accredited institution leading to the attainment of the BD degree, subject to the provisions of section 14 below.
  - (c) Course C shall be followed by Candidates who possess a degree (or equivalent qualification) in theology from a recognised institution; and shall normally consist of two years' full-time postgraduate study at an accredited institution, being a course approved in advance by the FAPLT.
  - (d) Course D shall be followed by Candidates currently studying theology in the School of Divinity (however termed) at an accredited institution and having at least two years' study still to complete; and shall normally consist of two years' full-time undergraduate study at that School leading to the completion of the degree.
  - (e) Course E shall be followed by Candidates currently studying theology in the School of Divinity (however termed) at an accredited institution and having one year's study still to complete; and shall normally consist of one year's full-time undergraduate study at that School leading to the completion of the degree and one year's full-time postgraduate study at the same or another accredited institution, being a course approved in advance by the FAPLT.
  - (f) (i) For the avoidance of doubt, a student or graduate of theology at an institution not recognised by the FAPLT for this purpose shall

- undertake Course A above, subject to the recognition of course credits by the academic institution at which Course A is to be taken.
- (ii) For the avoidance of doubt, a Candidate currently undertaking theological study at a recognised institution may choose either (A) to proceed in terms of (f)(i) above or (B) to complete their current course and then proceed in terms of Course C above.
- (2) With the permission in advance of the FAPLT, a Candidate following Course A or B may fulfil the requirements of the first year's study through part-time study over two years. For the avoidance of doubt, no Candidate may undertake part-time study in any other circumstances.
13. The Candidate shall satisfy the FAPLT of competence:
- (a) in the following areas of study (during the period of academic training specified in section 12 above):
- (i) Interpretation and use of Holy Scripture, both Old and New Testaments, including an introduction to methods of biblical criticism and analysis;
  - (ii) History of the Church, including the development of the Church of Scotland;
  - (iii) Principal doctrines of the Christian faith and their application to preaching and pastoral work;
  - (iv) Principles of Christian Ethics;
  - (v) Ministry and Mission, Worship, Preaching and Sacraments;
  - (vi) Pastoral Care and Theology.
- (b) in knowledge of the Bible and the Law of the Church, by fulfilling such assessment requirements as are set by the FAPLT;
- (c) in all areas of practical knowledge required by the FAPLT, by active participation throughout their Candidature (i) in such residential courses and conferences as are prescribed by the FAPLT and (ii) in seminars and events provided by the Church college attended by the Candidate, such practical training being designed to promote competence in the following areas:
- (i) Public worship and preaching;
  - (ii) Principles of effective communication;
  - (iii) Speech training;
  - (iv) Sacramental practice in the Church of Scotland;
  - (v) Church law and procedure;
  - (vi) Team working;
  - (vii) Leadership, support and encouragement of volunteers;
  - (viii) The practice of ministry and mission, including the minister as celebrant;
  - (ix) Personal prayer life.
- (d) in the practice of ministry, by completing to the satisfaction of the FAPLT the four placements prescribed in section 17 below;
- (e) in the area of safeguarding (this requirement to have been completed in advance of undertaking the practical training referred to in paragraph (c) above), and
- (f) in other areas determined from time to time by the General Assembly.
14. The prior permission of the FAPLT is required by any Candidate who, after starting one course of study, wishes to change course or change University. In the event of

such a change of course or University the Candidate shall notify the supervising Presbytery.

*15-16 Sections 15 and 16 were repealed by Act X 2005.*

### **Placements**

17. (1) As part of the Church requirements in section 13, four periods of placement work shall be undertaken by the Candidate, and must be completed to the satisfaction of the FAPLT which shall determine the length and content of each placement. The placements shall normally include three during the academic course (of which two shall be part-time and shall last not less than twenty-five weeks and one shall be a full-time summer placement lasting not less than ten weeks) and one full-time probationary placement of fifteen months commencing on the first day of July, August, September or October in the year of graduation; the FAPLT shall have power in exceptional circumstances to vary this arrangement.
- (2) At the beginning of each placement a Learning Covenant will be agreed by the supervising minister and the Candidate on placement.
- (3) Without the consent of the FAPLT, the Candidate will not be permitted to engage in academic study through a university or college or in remunerative employment or office during the course of the fifteen months full-time probationary placement at the conclusion of the academic course.
- (4) The supervisor of each placement will be chosen by the FAPLT and shall undertake training as specified by the FAPLT. The supervisor shall be responsible for supervising the placement according to the guidelines and standards established by the FAPLT, and shall produce assessment materials as required.
- (5) The assessment materials shall be assessed by the FAPLT. It shall be competent for the FAPLT to refuse to sustain a placement.
- (6) The FAPLT shall obtain from the Candidate evidence that they have satisfactorily completed the prescribed degree course, whereupon the FAPLT shall inform the Candidate that they have permission to commence the final probationary placement.
- (7) In respect only of the fifteen month full-time probationary placement referred to in section 17(1) above, the FAPLT shall have power to prescribe a part-time equivalent to the full-time probationary placement, which part-time equivalent shall have the same overall outcome in terms of hours worked and experience gained.

### **Presbytery Supervision during Course**

18. Throughout the course of training a Candidate must remain under the oversight and pastoral supervision of a Presbytery, initially the Presbytery which nominated him or her, and shall inform the Presbytery of any change of address.
19. (1) Where a Candidate's permanent place of residence changes following nomination so that the oversight and pastoral supervision of the nominating Presbytery is no longer possible, the Candidate shall, within two months of changing residence, apply in writing to the nominating Presbytery, to be transferred to the supervision of the Presbytery within whose bounds they now reside. On granting such application the Presbytery shall forward an Extract



- Minute to that effect to the Candidate, to the Presbytery within whose bounds the Candidate now resides, and to the FAPLT. This sub-section shall not apply to Candidates who move residence to a University centre for purposes of study, who shall be considered under sub-section (3).
- (2) Prior to each official meeting with the Candidates under its supervision the Presbytery shall initiate consideration of the circumstances of any Candidate who has thus changed their permanent place of residence but who has not made formal application to transfer. The Presbytery shall thereafter raise with the Candidate concerned the question of which Presbytery might most appropriately be responsible for the continuing supervision, and shall have power to effect a transfer to that Presbytery within whose bounds the Candidate now has permanent residence. When such a transfer is effected an Extract Minute to that effect shall be sent forthwith to the Candidate, to the Presbytery within whose bounds they now reside, and to the FAPLT.
  - (3) A Candidate may, in exceptional circumstances, make application to be transferred to the supervision of the Presbytery within whose bounds is situated the University at which they are studying or proposes to study. If the application is granted the same procedure shall be followed as in sub-section (1).

#### **Initial Course Preparations**

20. (1) At the outset of the Candidate's training an Initial Course Meeting shall be held, attended by the Candidate and whichever member of staff of the FAPLT has been allocated responsibility for the care of the Candidate.
- (2) At the Initial Course Meeting the Candidate and the staff member will discuss a personalised training plan, training policies (including the performance review policy) and the *Expectations and Responsibilities* document. Academic, practical and personal goals for the first year of training will also be discussed. In due course all of these documents will be agreed.
- (3) Other tasks of the Initial Course Meeting, and its structure and procedure, shall be determined from time to time by the FAPLT.

#### **Appraisal during Candidature**

21. (1) An Appraisal Meeting shall take place at the end of each academic year in which training has been undertaken, whether or not a Candidate has undertaken academic study during that year, and shall be carried out in terms of this section except during the final fifteen month probationary placement when the provisions of section 22 shall apply in supplement of this section 21.
- (2) The functions of each Appraisal Meeting shall be to confirm whether or not there is satisfactory progress, to set formation and learning goals through a facilitated conversation and discussion, and to implement the performance review policy if applicable. Other tasks of the Appraisal Meeting shall be as determined from time to time by the FAPLT.
- (3) The member of staff of the FAPLT who has been allocated responsibility for the Appraisal Meeting shall receive written reports from the Candidate, the supervising minister (if any) and the College (if academic study has been undertaken during the year); and shall use them along with any other written reports which the staff member obtains and the Formation Framework to prepare a Pre-Appraisal Form, to be circulated to all those attending the Appraisal

- Meeting, containing a satisfactory or unsatisfactory recommendation regarding the Candidate's progress.
- (4) A satisfactory recommendation on the Candidate's progress shall mean that one of the following conclusions may be reached after the Appraisal Meeting:
    - (a) that progress is satisfactory; or
    - (b) that pieces of work require to be completed, or areas of work require to be improved, within a period of time to be specified in the report.
  - (5) An unsatisfactory recommendation on the Candidate's progress shall mean that one of the following conclusions may be reached after the Appraisal Meeting:
    - (a) that progress is satisfactory; or
    - (b) that pieces of work require to be completed, or areas of work require to be improved, within a period of time to be specified in the Report; or
    - (c) that an extension of training requires to be arranged by the FAPLT and a further, final Appraisal Meeting conducted; or
    - (d) that the Candidature should be terminated.
  - (6) At the Appraisal Meeting the following shall apply:
    - (i) Any person who acts as a representative of Presbytery or the FAPLT shall receive appropriate training as shall be determined and provided by the FAPLT.
    - (ii) The representatives appointed by the Presbytery and the FAPLT shall each be appointed with powers to make decisions on behalf of the Presbytery and the FAPLT respectively; if a member or representative of the FAPLT is not present, it shall be the member of staff who has powers to make decisions on behalf of the FAPLT.
    - (iii) In the case of a Pre-Appraisal Form containing a satisfactory recommendation, in attendance shall be the Candidate, the member of staff of the FAPLT who has been allocated responsibility for the Appraisal and a representative of Presbytery.
    - (iv) In the case of a Pre-Appraisal Form containing an unsatisfactory recommendation, in attendance shall be the Candidate, the member of staff of the FAPLT who has been allocated responsibility for the Appraisal, a member or representative of the FAPLT and a representative of Presbytery. In this situation, the Candidate shall be notified prior to the Appraisal Meeting that there are concerns regarding their performance and that a member or representative of the FAPLT shall be present.
    - (v) In addition, at the final Appraisal Meeting which takes place before the final (fifteen month) probationary placement is due to commence, and whether the Pre-Appraisal Form for that Appraisal Meeting contains a satisfactory or unsatisfactory recommendation, a member or representative of the FAPLT shall attend in addition to the member of staff of the FAPLT.
    - (vi) The Meeting shall be co-convened on behalf of the FAPLT and the Presbytery.
  - (7) Following the Appraisal Meeting, an Appraisal Report will be prepared by the member of staff of the FAPLT who has been allocated responsibility for the Appraisal and circulated within 3 working days of the Meeting to all those who attended the Meeting. If the Candidate dissents from the Report or any part thereof, their dissent and the reasons for it shall be recorded in the Report, but shall not alter the status of the Report for the purposes of this Act.
  - (8) The Appraisal Report shall contain one of the following decisions:

- (a) that progress is entirely satisfactory; or
  - (b) that pieces of work require to be completed, or areas of work require to be improved, within a period of time specified in the Report.
  - (c) that an extension of training requires to be arranged by the FAPLT and a further, final Appraisal Meeting conducted (this option may be exercised only once in any academic year); or
  - (d) that the Candidature should be terminated.
- (9) The Candidate may appeal to the Ministries Appeal Panel against a decision in terms of sub-sections 21(8) (c) or (d) on one or more of the following grounds: (a) that in the course of the Appraisal Meeting there were irregularities in the process, (b) that the final decision was influenced by incorrect material fact, or (c) that the Appraisal Meeting was conducted contrary to the principles of natural justice. Notification of the intention to appeal shall be made to the FAPLT and to the Principal Clerk within 14 days of the date upon which the Appraisal Report was intimated to the Candidate. At the Appeal Hearing the Candidate shall be entitled to appear in person and the representative of Presbytery who co-convened the Appraisal Meeting shall appear to present the case for the Appraisal decision. The Candidate may be accompanied by a companion, who shall not be entitled to speak to the Panel but who may confer with the Candidate.
- (10) Notwithstanding the above provisions, at any time during Candidature, and including in terms of section 22, an Appraisal Meeting with full powers may be held.

#### **Appraisal while a Probationer and sustaining the course**

22. The Appraisal process during the final (fifteen month) probationary placement shall be as follows:
- (1) The normal process shall be Interim Appraisal after six months and Final Appraisal after twelve months. Alternatively, in the discretion of the FAPLT, the FAPLT may determine that a pattern of three-monthly Appraisal Meetings, or such other pattern as may seem appropriate to the FAPLT in its discretion, may apply throughout the probationary placement, until Final Appraisal. A third possibility is that where the FAPLT has prescribed, under section 17(7) above, a part-time equivalent to the requirement of a fifteen month full-time probationary placement, the FAPLT may prescribe equivalent milestones for Appraisal Meetings, including the Final Appraisal, as are appropriate to the arrangements agreed for the part-time probationary placement.
  - (2) At all Appraisal Meetings held during the final probationary placement, including the Final Appraisal, the following shall apply:
    - (i) The procedure set out in section 21 shall be followed.
    - (ii) The full range of decisions in terms of section 21(8) shall be possible, in addition to a decision at Final Appraisal in terms of sub-section (3) below.
    - (iii) In attendance shall be the Candidate, the supervising minister (for the first part of the Meeting only), a representative of the Presbytery, a member or representative of the FAPLT and the member of staff of the FAPLT allocated responsibility for the Appraisal.
    - (iv) Decisions shall be taken jointly on behalf of the Presbytery and the FAPLT.
  - (3) At the Final Appraisal, in addition to any decision reached in terms of sub-section 21(8), it shall be decided whether the final placement can be sustained and

whether the Candidate is fit to be ordained in due course. The Presbytery representative and the member or representative of the FAPLT shall each be appointed in such a way as to have powers to indicate the final approval of the Presbytery and of the FAPLT respectively to these matters at this stage.

### **Issue of Exit Certificate/Graduate Candidate Certificate**

- 22A. (1) Where final approval on behalf of the Presbytery and the FAPLT has been given in terms of section 22, and the FAPLT is satisfied that the requirements of sections 12-17 have been fulfilled, including all academic requirements, the FAPLT shall thereafter have the power to issue an Exit Certificate upon completion of the probationary placement. At that point the Candidate shall become a Graduate Candidate and shall then remain under the supervision of the Presbytery within whose bounds the final placement was undertaken, pending ordination to a charge or appointment.
- (2) The Presbytery shall in each calendar year assess in terms of the criteria set out in section 9 above, the general suitability of each Graduate Candidate and, if satisfied, shall issue a Graduate Candidate's Certificate confirming continuing approval, and shall advise the FAPLT by 31 December. Candidates will have a right of appeal in terms of sub-section (3) below in the event of the Presbytery declining to issue a Certificate.
- (3) The Graduate Candidate may appeal to the Ministries Appeal Panel against a decision in terms of section 22A(2) on one or more of the following grounds: (a) that in the course of the Presbytery's decision there were irregularities in the process, (b) that the Presbytery's decision was influenced by incorrect material fact, or (c) that the Presbytery's decision was conducted contrary to the principles of natural justice. Notification of the intention to appeal shall be made to the Presbytery and to the Principal Clerk within 14 days of the date upon which the Presbytery's decision was intimated to the Graduate Candidate. At the Appeal Hearing the Graduate Candidate shall be entitled to appear in person and a representative of the Presbytery shall appear to present the case for the Presbytery's decision. The Graduate Candidate may be accompanied by a companion, who shall not be entitled to speak to the Panel but who may confer with the Graduate Candidate.
- (4) A Presbytery must obtain a current Graduate Candidate's Certificate for any Graduate Candidate whose call or appointment is to be sustained by that Presbytery after 31 December of the year in which their Exit Certificate was awarded.
- (5) 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 (Act II 2017) (Application for Category **O** registration).

### **Complaints Procedure**

23. Subject always to the provisions of the Discipline Act (Act I 2019), which shall apply in respect of a Disciplinary Complaint (as that term is defined in the Discipline Act) relating to a Candidate, Probationer or Graduate Candidate (as those terms are used in this Act), the provisions of this section shall apply:

- (a) where any party to an *Expectations and Responsibilities* document claims that another party is in breach thereof; or
- (b) where the Presbytery or the FAPLT claim that a Candidate has failed to fulfil their obligations under the agreed *Learning Covenant*; or
- (c) where a material complaint is made to the FAPLT or Presbytery about the Candidate's conduct during training; or
- (d) where circumstances come to the attention of the FAPLT or Presbytery which give cause for concern about the Candidate's conduct during training.

Any such claim, complaint or circumstances shall be intimated by lodging with the senior staff member of the FAPLT dealing with matters of People and Training, a written statement providing specific details thereof. The senior staff member shall intimate the statement to the Candidate, the Convener of the FAPLT and the Presbytery.

- 24. (1) As soon as is reasonably practicable after receipt of the statement referred to in section 23, a staff member of the FAPLT shall meet with all relevant parties and seek to resolve such claim, complaint or circumstances to the satisfaction of all concerned.
  - (2) In the event that such resolution is not possible, any of the parties mentioned in section 23 may request a formal meeting of all parties in order to determine what is required to effect resolution.
  - (3) Such a formal meeting shall be attended by up to two representatives of each party, shall be called by the FAPLT and shall be convened by a staff member of the FAPLT, who will notify all parties in writing of the conclusions of the meeting. Such notification shall provide details of the consequences that will ensue in the event of failure by any parties to adhere to the conclusions of the meeting.
  - (4) The provisions of this section 24 shall not apply where the FAPLT makes a resolution in terms of section 25(2) below.
- 25. (1) In the event that no agreement is reached between parties at such a formal meeting as to the facts, or no agreed resolution is reached; or in the event that any party fails to adhere to the agreed conclusions, the Convener of the FAPLT shall convene a Hearing of all relevant parties.
  - (2) Furthermore, the FAPLT shall have power to resolve that it will not be possible to reach a resolution under a section 24 process, in which case the Convener of the FAPLT shall convene a Hearing of all relevant parties without recourse to the procedure set out in section 24.
  - (3) The Hearing shall be held as soon as is reasonably practicable. At such a Hearing the Candidate shall be present and may be accompanied by a companion who shall not be entitled to speak to the panel but who may confer with the Candidate. The panel for the Hearing, in addition to the Convener, shall comprise two representatives of Presbytery and two representatives of the FAPLT, none of whom shall have had prior personal involvement with the claim, complaint or circumstances giving rise to the Hearing. The two representatives appointed by the Presbytery and the FAPLT shall each be appointed with powers to make decisions on behalf of the Presbytery and the FAPLT respectively. A FAPLT staff member shall attend as an adviser.

- (4) At the Hearing all parties thereto shall be entitled to present evidence, to question witnesses and to make a concluding statement. At the conclusion of the Hearing, or as soon as may be practicable thereafter, the panel shall issue its decision and advise all parties. Such a decision shall be final and binding on all parties, subject only to appeal to the Ministries Appeal Panel in terms of Act VI 2007 on the following grounds:(a) that in the course of the Hearing there were irregularities in the process, (b) that the final decision taken at conclusion of the Hearing was influenced by incorrect material fact, or (c) that in the course of the Hearing there was a breach of the principles of natural justice. The intention to appeal shall be intimated to the FAPLT and to the Principal Clerk within 14 days of the panel's decision.

### **Repeals and Amendments**

26. Acts V 1985 and V 1998 are hereby repealed.

27. (1) In the following Acts references to Act V 1998 are hereby amended by the substitution of "Act X 2004", and references to sections 26 or 27 of Act V 1998 are hereby amended by the substitution of section 22 of Act X 2004: Act II 2000 s.1; Act III 2001 s. 2; Act IX 2001 ss. 1 and 6; Act IX 2002 ss. 9(1) and 9(3), 11; Act VIII 2003 s.20(3); Act XV 2003 s.5; Act XIII 2003 ss.1, 4, 6 and 8 (first sentence).
- (2) Act IX 2001 is hereby amended as follows: in section 2 the first sentence is amended to read "Act X 2004, sections 2-11, 16 and 18-21 shall apply to the Diaconate.";
- (3) Act IX 2002 is hereby amended as follows: (a) in section 10, by the deletion of "sections 3 to 12 of Act V 1998 (as amended)" and the substitution of "sections 3 to 11 of Act X 2004"; (b) by the amendment of section 12 to read "For the purposes of this Act, the Appeals procedure shall be that set out in section 6(6) of Act X 2004 Anent Selection And Training For The Full-Time Ministry And Eligibility For Ordination.";
- (4) Act XIII 2003 is hereby amended as follows: (a) in section 7 all references to section 6 of Act V 1998 (as amended) shall be deemed to refer to section 6 of this Act; (b) in section 8 by the deletion of the last sentence.

**V. CHILD PROTECTION PROCEDURES ACT (ACT V 2005)**

*Edinburgh, 23rd May 2005, Session IV*

The General Assembly enact and ordain as follows:

1. The General Assembly's Child Protection or Safeguarding Unit (however termed from time to time) shall maintain a list of all instructions, recommendations and legislation relating to child protection practices in the Church and passed by previous General Assemblies. The list, and any subsequent alterations to it, shall be approved by the General Assembly, published in the Unit's handbook and otherwise disseminated to the whole Church.
2. Courts, agencies, congregations and individuals shall implement all the instructions of the General Assembly contained in the list referred to in section 1 above.





**VI. MINISTRIES APPEALS PANEL ACT (ACT VI 2007) (AS AMENDED BY ACTS I AND III 2009, ACT XIII 2012, ACT VIII 2013, ACT II 2017 AND ACT IX 2018)**

*Edinburgh, 19 May 2007, Sess. I*

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

1. The General Assembly hereby appoints a standing committee to be known as the 'Ministries Appeals Panel' to hear and finally dispose of such appeals as are delegated to it in terms of this Act. The decisions of the Ministries Appeals Panel shall be final, and there shall be no right of appeal against them. For the avoidance of doubt, save as specified in this Act, no decision taken solely by any Kirk Session or Presbytery of the Church may be appealed to the Ministries Appeal Panel.
2.
  - (1) The Ministries Appeals Panel shall consist of a Convener, Vice-Convener and three members all appointed by the General Assembly on the nomination of the Nomination Committee and in terms of the Standing Orders of the General Assembly. At least one member shall be legally qualified, at least one shall be a minister and at least one shall be an elder. The quorum of the Ministries Appeals Panel 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).
  - (2) The Clerks of the General Assembly shall act as Clerks to the Ministries Appeals Panel, though not members thereof, but the duties may be carried out by one of them. If neither of them is present, the Ministries Appeals Panel shall appoint a substitute, whether or not a member thereof, to act as Clerk of the Panel during the sittings thereof, and the oath *de fidei* shall be administered to him or her and recorded.
3. Procedure shall be in accordance with the Standing Orders of the General Assembly so far as applicable and consistent with this Act. The Ministries Appeals Panel 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 Ministries Appeals Panel shall be accountable to the General Assembly which may revoke any action in excess of the powers conferred by this Act.
4. The Faith Nurture Forum shall report to the General Assembly all decisions made by the Ministries Appeals Panel in terms of this Act.
5. The Ministries Appeals Panel shall hear appeals by individuals against decisions of the Faith Nurture Forum or any of its committees, relating to questions of recruitment, selection, education and training for the full-time Ministry of Word and Sacrament, the Auxiliary Ministry, the Ordained Local Ministry, the Diaconate and the Readership, in accordance with the relevant Acts and Regulations of the General Assembly. 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 II 2017), in accordance with section 33 of that Act. In addition the Ministries Appeal Panel shall hear appeals arising under the Continuing Parish Ministry

Beyond the Age of 75 Regulations (Regs II 2018).

6. Act VI 1997 anent the Commission of Assembly (as amended) is hereby further amended by the addition to sub-paragraph 5(d)(i) of the words “, and with the further exception of those delegated to the Ministries Appeals Panel in terms of Act VI 2007”.
7. Act XVII 1992 anent the Readership (as amended) is hereby further amended by the addition of a new section 10 to read: “Appeals against decisions of the Ministries Council in terms of sections 1, 2 and 9 of this Act shall be subject to the provisions of Act VI 2007 anent the Ministries Appeals Panel”.
8. Act IX 2001 anent Selection, Training and Admission of Deacons (as amended) is hereby further amended by the addition to the end of section 2 of the sentence: “For the avoidance of doubt appeals against decisions taken in terms of this section shall be subject to the provisions of Act VI 2007 anent the Ministries Appeals Panel”.

*Note: Act I 2009 section 9 provides that this Act should be interpreted in conformity with that one (effectively, Act IX 2002 as thereby amended).*

## **V. THIRD ARTICLE DECLARATORY ACT (ACT V 2010)**

*Edinburgh, 21 May 2010, Session 2*

The General Assembly declare as follows:

- (1) The Church of Scotland reaffirms the principles enshrined in the third Article Declaratory and declares anew its commitment to be a national church with a distinctive evangelical and pastoral concern for the people and nation of Scotland;
- (2) The Church of Scotland asserts that, while this commitment is recognised by Act of Parliament, namely the Church of Scotland Act 1921 and Articles Declaratory appended thereto, its true origin and entire basis lie not in civil law but in the Church's own calling by Jesus Christ, its King and Head;
- (3) The Church of Scotland remains committed to the ecumenical vision set out in the seventh Article Declaratory and, in pursuit of that vision, stands eager to share with other churches in Christian mission and service to the people of Scotland;
- (4) The Church of Scotland understands the words "a national church representative of the Christian faith of the Scottish people" as a recognition of both the Church's distinctive place in Scottish history and culture and its continuing responsibility to engage the people of Scotland wherever they might be with the Gospel of Jesus Christ.
- (5) The Church of Scotland understands the phrase "bring the ordinances of religion to the people in every parish of Scotland through a territorial ministry" to mean a commitment to maintain worshipping, witnessing and serving Christian congregations throughout Scotland.



**VIII. DEACONS ACT (ACT VIII 2010) (incorporating the provisions of Acts VIII 1998, IX 2001, VII 2002 and II 2004, all as amended) (AS AMENDED BY ACT XIII 2016, ACTS II AND VII 2017, ACT V 2019 AND ACT VI 2021)**

*Edinburgh, 22 May 2010, Session IV*

The General Assembly declare and enact as follows:-

**The Office of Deacon**

1. A Deacon is a man or woman who, under a Call from God, has pledged himself or herself to the service of Jesus Christ and His Church and has been selected, trained and ordained to exercise ministry in terms of this Act (or any succeeding legislation) and according to the doctrine and discipline of the Church of Scotland. The Office of Deacon is recognised by the Church to be a distinctive, lifelong status within the ministry of the Church and to be agreeable to the Word of God. For the avoidance of doubt, this Act does not apply to members of Deacons' Courts.

**A. SELECTION, TRAINING AND ORDINATION OF DEACONS**

**Definitions**

2. Section 1 of Act X 2004 shall apply to the Diaconate subject to the deletion of sub-sections (h), (j) and (k), all for the purposes of that application only.

**Selection and Training of Deacons**

3. Sections 2-11 (including 6A & 6B), 18-21 and 23-25 of Act X 2004 shall apply to the Diaconate. For the purposes of this Act:
  - (i) references to 'the Ministry of the Church of Scotland' or 'the full-time ministry' shall be understood as referring to the diaconal ministry of the Church of Scotland
  - (ii) references to Universities shall be deemed to include any institution of higher education approved by the Faith Nurture Forum for the training of Deacons.For the avoidance of doubt appeals against decisions taken in terms of this section shall be subject to the provisions of Act VI 2007 anent the Ministries Appeals Panel.

**Academic and Practical Training of Deacons**

4.
  - (a) Each Candidate shall have a Course prescribed by the Faith Nurture Forum immediately following acceptance as a Prospective Candidate.
  - (b) The Candidate shall satisfy the Faith Nurture Forum of competence:
    - (i) in all areas of study prescribed from time to time by the Faith Nurture Forum, which shall always include the interpretation and use of Holy Scripture (both Old and New Testaments), the development and growth of the Church (with special reference to the Church of Scotland), the principal doctrines of the Christian faith (their interpretation, their defence and their application), the constitution and laws of the Church of Scotland, the history and contemporary understanding of the Diaconate in the Church of Scotland and ecumenically, practical theology (including mission, evangelism, pastoral care and counselling, the worship of the Church (especially the Church of Scotland), and the contemporary understanding of Church and society, and voice and communication skills;
    - (ii) in further optional courses approved from time to time by the Faith Nurture Forum and selected by the Candidate;

- (iii) in all areas of practical knowledge required by the Faith Nurture Forum, by satisfactory participation throughout their candidature in such residential courses and conferences as are prescribed by the Faith Nurture Forum;
- (iv) in attendance and participation at the Diaconate Council;
- (v) in the practice of the diaconal ministry, by completing to the satisfaction of the Faith Nurture Forum the three placements prescribed below.

### **Placements during Training**

5. (a) As part of the Church requirements, three periods of placement work shall be undertaken by the Candidate, and must be completed to the satisfaction of the Faith Nurture Forum which shall determine the length and content of each placement. The placements shall normally include two during the academic course (of which one shall be part-time and shall last not less than twenty-five weeks and one shall be a full-time summer placement lasting not less than ten weeks) and one full-time placement of twelve months commencing on the first day of July, August, September or October in the year of completion of the prescribed academic course; the Faith Nurture Forum shall have power in exceptional circumstances to vary this arrangement.
- The candidate will not normally be permitted to engage in academic study through a university or college or in remunerative employment or office during the course of the twelve months full-time placement at the conclusion of the academic course.
- (b) The supervisor of each placement will be chosen by the Faith Nurture Forum and shall undertake training as specified by the Faith Nurture Forum. The supervisor shall be responsible for supervising the placement according to the guidelines and standards established by the Faith Nurture Forum and University, and shall produce assessment materials as required.
- (c) The assessment materials shall be assessed by the Faith Nurture Forum. It shall be competent for the Faith Nurture Forum to refuse to sustain a placement where it considers that the Candidate has not met the required standard or for other relevant reasons.

### **Sustaining the Course**

6. (a) The Faith Nurture Forum shall obtain from the universities lists of those Candidates who have satisfactorily completed their prescribed Course, whereupon the Head of the Faith Nurture Forum shall inform candidates that they have permission to commence their final placement.
- (b) The Faith Nurture Forum shall, in consultation with the Presbytery, decide whether to sustain the final placement after nine months.
7. The Faith Nurture Forum shall maintain a list of those who have satisfactorily completed their training in terms of this Act and Act X 2004. An individual who has completed training, who has not been ordained as a Deacon and who has not applied to be removed from the above list, shall for the purposes of superintendence and discipline be treated in the same manner as a Graduate Candidate as defined in section 22 of Act X 2004 and all Acts and Regulations of the General Assembly relating to the superintendence or discipline of a Graduate Candidate shall apply to such individuals.

### **Ordination**

8. (a) *Entitlement.* It belongs to Presbytery to ordain an individual to the Office of Deacon on his or her taking up an appointment. However, in order to ensure a general

standard of qualification and training for the Office throughout the Church, a Presbytery may ordain a candidate to this Office only if it is furnished with a recommendation to that effect from the Faith Nurture Forum.

- (b) *Procedure.* The procedure leading to the act of ordination shall be the same as the procedure described in section 29 of Act VIII 2003 for ministers of Word and Sacrament, *mutatis mutandis*.
- (c) *Ordained status.* A Deacon, on being ordained, shall have the authority of the Church to exercise his or her appointed ministry. He or she shall be entitled to append the letters “DCS” (Deacon of the Church of Scotland) after his or her name and to wear the Diaconate badge. On being ordained, a Deacon shall be admitted into membership of the Diaconate Council.
- (d) *Membership of Presbytery.* A Deacon shall be a member of Presbytery if he or she occupies a parish appointment, or any other post that would entitle a Minister of Word and Sacrament to membership of Presbytery in terms of sections 11-13 of Act III 2000, and the provisions of those sections shall determine which is the relevant Presbytery. A Deacon who does not occupy such a parish appointment, or other qualifying post, but who is registered on the Register of Ministry in Category **R**, shall be entitled to apply for membership of Presbytery on the same basis as a Minister of Word and Sacrament holding Category **R** registration, being in terms of section 14 of Act III 2000.

#### **Admission and Readmission of Deacons**

9. Act XIII 2022 (as amended) shall apply to the diaconate *mutatis mutandis*.

#### **Transfer to the Ordained National Ministry**

10. *This section was deleted by Act V 2019.*

### **B. FUNCTION OF DEACONS**

#### **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 II 2017). Those functions may be exercised in one or more of the following spheres:
- (a) service in the employment of a Forum, 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 Faith Nurture Forum and the Presbytery concerned.

#### **Deacons and Marriage Services**

12. (1) The functions of a Deacon shall include 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.
- (2) For the purposes of the conduct of marriages, section 4 of the Parish Ministry Act (Act II 2018) shall apply to Deacons.
- (3) *Deleted by Act XIII 2016.*

### **Retirement Age**

13. *Deleted by Act XIII 2016.*

## **C. SUPERINTENDENCE OF DEACONS**

### **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 II 2017).  
(b) A Deacon is under obligation to notify the Presbytery Clerk of any change of address.

### **Responsibility for Service**

15. A Deacon shall be responsible for the due performance of his or her service as follows; namely:  
(a) a Deacon, serving under a Forum, Council, Committee or Court of the Church shall be responsible to that body;  
(b) a Deacon, serving outwith the jurisdiction of the Church of Scotland, shall be responsible to the employer.

### **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 II 2017).

### **The Roll of the Diaconate**

17. *These provisions are superseded by the Registration of Ministries Act (Act II 2017).*

### **The Diaconate Council**

18. (1) The functions of the Diaconate Council, of which all Deacons shall be members, shall include the representation of the interests of all Deacons to the Faith Nurture Forum, and the support of the Faith Nurture Forum in the professional development of Deacons.  
(2) The Constitution and Standing Orders of the Diaconate Council, and the Constitution of Local Associations thereof, are as set out in Appendices A, B and C, and are subject to the powers of alteration contained therein.

## **D. REPEALS AND AMENDMENTS**

19. Sections 26 and 27 of Consolidating Act III 2000 anent Church Courts (as amended) are hereby repealed, and shall be replaced by a note reading "*See Act VIII 2010*"
20. Act II 1988 anent the Judicial Commission (as amended) is hereby further amended as follows:  
• by the addition in paragraph 2(a), after the word 'Ministers' of ', Deacons'.  
• by the addition in paragraph 2(j), after the word 'Ministers' of ', Deacons'.
21. Paragraph 1(c) of Act XV 2003 anent Scottish Criminal Records office Checks of Ministers, Deacons and readers in Terms of the Police Act 1997 (as amended) is hereby



amended to read “*Deacon*, for the purposes of this Act only, refers to all Deacons who are members of Presbyteries or holders of Practising Certificates.

For the avoidance of doubt, this Act does not apply to members of Deacons’ Courts.”

## APPENDIX A

### CONSTITUTION OF DIACONATE COUNCIL (“Council”)

#### 1. Functions

The Functions of Council hereinafter constituted shall be:

- To promote the call to, and ministry of, the Diaconate of the Church of Scotland
- To support the Diaconate Rule of Life
- To provide fellowship and support to those engaged in Diaconal Service
- To formulate and express the collective views of the Diaconate to the wider Church
- To provide opportunity for in-service training and personal development
- To engage with those in similar ministries at home and overseas
- To support the Church in the selection, training and development of Deacons

#### 2. Constitution

Council shall consist of:

All Deacons registered on the Register of Ministry in Category **E** or **R** who shall be voting members of Council.

In addition:

- Deacons registered on the Register of Ministry in Category **I** and those engaged in Diaconal Service within other denominations may attend Council at their own expense as corresponding members.
- The Faith Nurture Forum of the Church (the Forum”) will be represented by 3 attendees who will be corresponding members.
- Designated Guests invited by the Executive Committee on behalf of Council may attend Council.
- Diaconal Students and those undertaking probationary periods may be invited to attend Council as designated guests.

#### 3. Office – bearers

The Office bearers shall be:

- A President, who shall hold office for four years and will not be eligible to serve consecutive terms of office.
- A Vice President, who shall hold office for four years and will not be eligible to serve consecutive terms of office.

The President and the Vice President shall be elected by Council in a manner specified in the Standing Orders.

Council shall approve the appointment of a Minute Secretary, who shall serve for two years and shall be eligible to serve consecutive terms of office.

## **4. Committees**

### **4.1 Executive Committee**

An Executive Committee of five shall be appointed by Council to attend to matters pertaining to the Diaconate and shall be constituted in a manner provided in Standing Orders.

The Executive Committee shall consist of the President and Vice-President, who shall be *ex-officio* and three members elected by Council in manner specified in Standing Orders.

The Executive Committee shall have the power to co-opt corresponding members or, where desirable, establish a Short Life Working Group to support the work of the Executive Committee.

Administrative support will be provided by the Forum.

### **4.2 Short Life Working Groups**

Council shall have power to establish, if it so desires, Short Life Working Groups to facilitate its business, consider aspects of Diaconal Ministry and to promote the Diaconate Rule of Life. Any such Short Life Working Group shall be given an agreed remit.

A Short Life Working Group shall nominate one of their number as "Chairperson" who will report on behalf of the Group to the Executive Committee. The Short Life Working Group can, if required and with the permission of the Executive Committee, appoint additional members where appropriate.

## **5. Finance**

Each year the Forum, in consultation with the Executive Committee, shall set an operational budget for Council. The Executive Committee shall be accountable for any budget set by the Forum.

Any proposal involving finance amounting to more than the total budget shall, before action is taken, be referred to the Forum.

The Executive Committee shall administer all Discretionary Funds (both Restricted and Designated) held on behalf of Council. In addition, and for the avoidance of doubt, the Executive Committee shall be responsible for the administration and application of the annual "Holiday Grant".

The Executive Committee may use the Discretionary Fund to make grants to members of the Church of Scotland Diaconate to support activities which are consistent with the Diaconate Rule of Life. In exceptional circumstances, the Executive Committee may consider an Emergency Hardship Grant, to help members of the Diaconate who are in financial need.

Applications for financial assistance should be made in writing to the President. All such applications and grants shall remain confidential.

## **6. Meetings**

Council shall meet twice a year. Usually one of the meetings shall be residential in nature. The Executive Committee will be responsible for setting the date of such Council meetings and shall make all necessary arrangements.

A draft calendar of meetings for the following twelve months shall be agreed and issued by the Executive Committee in October each year.

The Executive Committee, in agreement with the Forum, may in exceptional circumstances call an extraordinary meeting of Council.

Council shall meet in public or in private as the Executive Committee may decide or following a request under Standing Orders.

## **7. Procedure**

- The Executive Committee shall be responsible for all arrangements pertaining to Council including setting the date and the agenda.
- Worship during Council shall be coordinated by the President.
- Council shall appoint a Minute Secretary who shall record the minutes of Council.
- The cost of Council, including the travelling expenses of full members of Council, and designated guests, shall be met from the Council Budget.

Other procedures shall be as set out in Standing Orders.

## **8. Regional Diaconate Groups**

Council shall recognise and support the establishment of Regional Diaconate Groups. Regional Groups shall do all things necessary for, or incidental to, the functioning of Council, and shall be governed by the Constitution set out in Appendix C.

## **9. Alteration of Constitution**

Any alteration to this Constitution may be made only by a two-thirds majority of the voting membership of Council, upon a motion of which fifteen days' notice has been given to all members thereof.

# **APPENDIX B**

## **DIACONATE COUNCIL – STANDING ORDERS**

### **1. Procedure at Meetings**

- 1.1 The President, or in their absence the Vice-President, shall preside, whom failing Council shall appoint its own Chairperson *pro tempore*.
- 1.2 The President shall ensure that each session of Council be opened and closed with prayer.

### **2. Business Session**

- 2.1 The Business Session of Council shall include:
  - (1) Election of Office-bearers
  - (2) Roll of Honour
  - (3) Finance Report
  - (4) Establishment of, and reports from, Short Life Working Groups
  - (5) Where invited, appoint representatives to the Faith Nurture Forum of the Church or to other events

- (6) Reports from the General Assembly and the Standing Committees of the General Assembly
- (7) Initiation of discussion on any matters which concern the Diaconate, Diaconal Service and the wider interests of the Church
- (8) Recognition of, and reports from, Regional Groups annually
- (9) Welcome of guests from the Church at home, nationally and internationally
- (10) Welcome and presentation of Diaconal Students

2.2 Council shall normally meet in public, however where a matter is considered contentious, or relates to a sensitive issue, Council may meet in private. It shall be competent for the Executive Committee to move that such items be taken in private. The speaker on any item of business can also request that an item is taken in private, giving reasons briefly; the seconding shall be formal, and any vote necessary shall be taken without debate.

2.3 On a Point of Order being raised (it is necessary for a specific Standing Order to be specified) the President shall rule thereon and such ruling shall be accepted as the finding of Council.

### **3. Election of Office-bearers**

3.1 Nominations for the election of the President and Vice- President shall be sent to the Executive Committee by Regional Groups. Those nominated must have been ordained for at least three years, be a voting member of Council and agree to their nomination.

3.2 Each Regional Group shall send in a maximum of two nominations to the Executive Committee. Nominations will be selected from the membership of Council. Those nominated must have been ordained for at least three years, be a voting member of Council and agree to their nomination.

3.3 The election of Office Bearers shall take place by Postal Vote. The Executive Committee shall notify voting members of Council of nominations and will take all necessary steps to facilitate election of the Office Bearers.

3.4 The Executive Committee shall bring to Council recommendations for the post of Minute Secretary.

### **4. Executive Committee**

4.1 The President and Vice-President shall be *ex officio* members of the Executive Committee. The term of office shall run for 4 years from June 1<sup>st</sup> of the year elected.

4.2 Council will elect 3 members from their numbers to serve on the Executive Committee, one member to be elected annually.

4.3 Elected members shall serve for 3 years. Nominations to the Executive Committee can be made by Regional Groups or by individual members of Council. Those nominated must have been ordained for at least three years, be a voting member of Council and agree to their nomination.

4.4 Election to the Executive Committee will take place by Postal Vote. The Executive Committee shall notify members of Council of all nominations and will take all necessary steps to facilitate election of the Office Bearers.

### **5. Short Life Working Groups**

5.1 Any Short Life Working Group appointed by Council, by virtue of the power conferred on it in the Constitution, shall be given a special remit, and shall report to Council.

5.2 Members of Short Life Working Groups will be identified, and appointed, by the Executive Committee.

## **6. Minutes**

6.1 The Minutes Secretary shall record the Minutes of Council which shall be approved at the opening session of the next Council.

6.2 Full Minutes of the proceedings of Council shall be circulated to all members at least 15 days prior to the start of Council.

## **7. Reports**

7.1 Reports from Regional Groups shall be sent to the Executive Committee by the last day of February each year.

7.2 Reports from the Executive Committee and from Short Life Working Groups will be sent to Council Members along with the Agenda 15 days prior to the start of Council.

## **8. Any Other Business**

8.1 Regional Groups, individuals or Standing Committees of the General Assembly may request that an item be placed on the Agenda for Council, giving 15 days' notice to the Executive Committee. The Executive Committee shall decide if such business is competent.

8.2 When less than 15 days' notice has been given, the mover shall briefly introduce the item and Council shall, without discussion, decide by simple majority whether to take up the item of business or to depart from the matter.

## **9. Suspension of Standing Orders**

9.1 It shall be competent to suspend Standing Orders, or any one of them, in any particular case, but a motion to this effect shall not be carried unless it receives the support of at least two-thirds of the voting members present and voting on the question being put by the President.

## **10. Close of Council**

10.1 When the business set down for the final day of the session of Council has been completed, Council shall approve the date and place of its next meeting.

## **11. Alterations of Standing Orders**

11.1 Fifteen days' notice having been given, these Standing Orders may be altered by a two-thirds majority of voting members present at a meeting of Council.

## **APPENDIX C**

### **REGIONAL GROUP OF THE DIACONATE – CONSTITUTION**

1. The name shall be “Church of Scotland Diaconate Regional Group (area covered)”

## **2. Aim**

- To promote the call to, and ministry of, the Diaconate of the Church of Scotland
- To support the Diaconate Rule of Life
- To provide fellowship and support to those engaged in Diaconal Service
- To support the training of Diaconal students and those serving a probationary period within their bounds
- To communicate with the Executive Committee on matters concerning Diaconal Ministry
- To provide an opportunity for Deacons to reflect on matters concerning Diaconal Ministry or public interest

## **3. The aim shall be reached by:**

- Meeting at least twice each year
- Providing an opportunity for fellowship and the nurturing of devotional life as set out in the Diaconate Rule of Life
- Submitting an annual report to the Executive Committee in February each year for submission to Council
- Considering business sent to the Regional Group by the Executive Committee or Council
- Taking to Council matters concerning Diaconal Ministry

## **4. Membership**

- All Deacons registered on the Register of Ministry in Category **E** or **R** shall be full members of the Regional Group.
- All Deacons registered on the Register of Ministry in Category **I** may be associated but without voting rights.
- Diaconate students or those serving a probationary period shall be associated but without voting rights.
- Deacons of other denominations may be invited to be associated with a Regional Group.

## **5. Chairperson**

Each Regional Group shall appoint a Chairperson in accordance with a procedure agreed by the Regional Group in advance. The role of the Chairperson shall be:

- To act as a spokesperson for the Regional Group
- To ensure clear and timely communication between the Regional Group and Executive Committee
- To coordinate meetings of the Regional Group
- To coordinate communication between members of the Regional Group

## **6. Report for Council**

A report from each Regional Group will submit a report to the Executive Committee by the end of February each year.

### **7. Council Business**

Regional Groups or individuals may request an item of competent business to be placed on the Agenda of Council, giving 15 days' notice to the Executive Committee. Where shorter notice has been given, the mover shall briefly introduce the item and Council shall, without discussion, decide by simple majority whether or not to take up the item of business.

Any business brought forward by an individual Deacon, if rejected by the Regional Group, shall if desired by the Deacon, be forwarded by the Regional Group with full comments to the Executive Committee for consideration.

### **8. Election of President and Vice-President of Council**

On the occasion of the election of a President or Vice-President of Council, Regional Groups shall send to the Executive Committee by the end of October not more than two nominations.

Nominations shall be selected from the voting membership of Council. Those nominated must have been ordained for at least three years, be a voting member of Council and agree to their nomination.

Nominations to the Executive Committee shall be submitted to the Executive Committee by the Regional Group or by an individual. Nominations shall be sent to the Executive Committee by the end of October. Those nominated must have been ordained for at least three years, be a voting member of Council and agree to their nomination.

### **9. Change of Constitution**

Any request to change the constitution can be proposed by the Executive Committee or a Regional Group. Where the proposal is made by a Regional Group the Group should notify the Executive Committee for discussion and agreement at Council. As each Regional Group is governed by the same Constitution, such changes shall only become effective when approved by a two-thirds majority of the voting membership of Council.





## **I. LOCAL CHURCH REVIEW ACT (ACT I 2011)**

*Edinburgh, 21 May 2011, Session 1*

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

1. The Presbytery shall conduct a review of every congregation in the Presbytery, normally once every five years. This is without prejudice to the right and responsibility of the Presbytery to make other superintendence visits as it deems necessary.
2. The object of the review by members of the Presbytery is to give encouragement and counsel to the congregation; to facilitate the congregation in setting out their priorities and plans for at least the next five years; and where anything unsatisfactory is found in the state of the congregation or not in accord with church law and order they shall give advice or take supportive or remedial action.
3. The review may be conducted as two separate exercises (and if appropriate by different representatives of the Presbytery), for the purposes of sections 4 and 5 below.
4. The Presbytery shall satisfy itself on the following matters and any other matters relating to the implementation of the law of the Church and the deliverances of the General Assembly: (To aid the Visiting Team initial information on these areas should be provided by the congregation as part of the advance information sent to the Visiting Team before the visits begin)
  - (a) the administration of the Sacrament of Baptism to infants in accordance with Act V, 2000;
  - (b) whether office-bearers are representative of the congregation's life, for example in terms of age and gender;
  - (c) whether the congregation's current form of constitution serves its future mission;
  - (d) whether the employment status of members of staff, the formal relationships among them and the prioritisation of work amongst them serves the congregation's mission effectively;
  - (e) compliance by the Kirk Session with the church law and civil law relating to Safeguarding;
  - (f) compliance with those provisions of Act XII 2007 regarding the provision and maintenance of manses;
  - (g) implementation of the findings of the most recent property surveys;
5. The Presbytery shall undertake a review of the work of the congregation and an exploration of the future direction of the mission of the congregation using guidance materials provided by the Faith Nurture Forum. The purpose of the review is to establish:
  - (a) The congregation's own analysis of its purpose and vision for the future: this should include all aspects of the church's work as defined by that congregation, including worship, service, fellowship, discipleship, evangelism, social outreach, congregational life, Christian education, finance, fabric, and ministries support in relation to the local, national and international mission of the Church.
  - (b) The nature of the working relationships amongst office-bearers, and between the office-bearers and the minister.

- (c) The values that shape and direct the life of the congregation.
  - (d) How the life and work of the congregation has developed since the last review.
  - (e) What challenges have been encountered, and how these have been or can be dealt with.
  - (f) How the congregation plans to implement its vision for the future.
  - (g) What resources the congregation needs for its development, change and growth, and the source of such resources.
6. The process of review shall involve the production of an action plan for the congregation expressing a vision of the local church for its mission over at least the next five years, taking account of the resources available and the current Presbytery Plan.
  7. The review shall include a visit by a team appointed by the Presbytery to the local church, where they will meet with members of the ministry team, elders and other representative members of the congregation.
  8. The structure of the review by the Presbytery representatives shall reflect the needs of the local church. It may include more than one visit, different meetings with different groups, follow-up meetings, separate meetings with the minister, separate meetings with office bearers and such other meetings as it considers necessary. The leader of the Visiting Team or his or her duly appointed deputy shall take the chair at all aforementioned meetings.
  9. In all cases the Visiting Team (or teams) shall submit a full report (or reports) to the Superintendence Committee of the Presbytery and to the minister and Kirk Session. The Visiting Team shall make every effort to agree the terms of its report with the Kirk Session, and shall indicate in the submitted report any outstanding areas of disagreement. The report shall narrate the current circumstances of the congregation, the intentions and plans of the minister and Kirk Session, the action plan referred to in section 6 and make recommendations for action and support by the Presbytery, and a time-table for subsequent superintendence and congregational action.
  10. The Superintendence Committee shall, after due and careful consideration of the report of the Visiting Team, submit a final Report to the Presbytery with its findings and a note of any comments received from the minister or Kirk Session. The minister or Kirk Session or any other party having an interest shall have the right to be heard by the Superintendence Committee and/or the Presbytery when the report is being dealt with by either body.
  11. Once approved by the Presbytery, the Superintendence Committee shall forward a copy of the report to other relevant Committees of the Presbytery mentioned as part of the report's recommendations for action and support.
  12. In the event of the Presbytery finding itself unable to express satisfaction with the state of any congregation, it shall instruct the Superintendence Committee to make further inquiry and to endeavour to remedy what is deemed to be unsatisfactory. If, after this further enquiry, the Presbytery finds that it is still unable to express satisfaction, it shall proceed under Act I, 1988.

13. In the case of a Single Congregation Local Ecumenical Partnership (LEP) and Churches in Covenanted Partnership, which are recognised by the National Sponsoring Body for Local Ecumenical Partnerships (NSBLEP), an Ecumenical review in the form approved by the NSBLEP on 14 March 2008 shall be deemed to fulfil the requirements of this Act for the Church of Scotland. For the avoidance of doubt this is without prejudice to the general right and responsibility of the Presbytery to exercise superintendence in other ways, and it is without prejudice to the requirement of the regulations of any other denomination which is a partner in the same LEP.
14. The Presbytery shall have the ability to develop the process to fit its own needs, provided only that the requirements set out in this Act are fulfilled.

### **Consequential Amendments**

14. The following Acts and Regulations are hereby repealed or amended:
  - (1) Act II 1984 is hereby repealed.
  - (2) Act III 2000 s.39 is hereby amended by the deletion of the words “Act II 1984 anent Presbytery Visits (as amended)” and the substitution of the words “Act XXX 2011 anent Local Church Review”.
  - (3) Act VI 2002 s.2 is hereby amended by the deletion of the words “Act II 1984 anent (as amended)” and the substitution of the words “Act XXX 2011”
  - (4) Act VI 2004 is hereby amended by the deletion of section 20.
  - (5) Regulation 2, 2004 is hereby amended by the deletion of the words “Presbytery visits” and the substitution of the words “Local Church Reviews”.

## **APPENDIX TO ACT I, 2011**

### **LOCAL CHURCH REVIEW GUIDELINES**

The specific aims of Local Church Review and the requirements to be met are laid out in the Act anent Local Church Review. Beyond that, Presbyteries may develop their own systems within the stated requirements. The following guidelines are designed to help Presbyteries develop a system of Local Church Review appropriate to their needs. It is important to note that these guidelines are not exhaustive and are not intended to restrict Presbyteries to a particular way of fulfilling their obligations in terms of the Act.

#### **Advance preparation**

The Leader of the Presbytery Visiting Team should contact the minister of the congregation in advance to outline the process and to suggest dates for the visit or series of visits. The Kirk Session should appoint a group of key office bearers to:

- (1) Provide information in advance of the Presbytery Visit (see Appendix 3). [This information should become part of a database of basic statistical and contextual information on the congregation, and on the parish that the local church seeks to serve. Presbytery should keep a record of this to assist with future reviews.] and
- (2) To meet with the Presbytery Visiting Team prior to the Presbytery Visit to the whole congregation.

#### **Pre-Meeting with key office bearers**

The Presbytery Visiting Team should meet with the group of key office-bearers to explain the new process in detail, and to confirm the date(s) of the visit(s). The meeting with key office-bearers should review at least the areas set out in section 5a) to g) of the Act anent Local Church Review. This visit should encourage the key office-bearers to:

- a) Express the life of the congregation as they see it, sharing what has gone well in the past ten years, what has been difficult, where they see the congregation's strengths and weaknesses and how they discern God to have been at work in their midst.
- b) Look forward for at least the next five years to identify the changes that are likely to take place in the congregation and parish as well as the opportunities and challenges that might present themselves within the same time frame.
- c) Review the database of basic statistical and contextual information on the congregation, and on the parish that the local church seeks to serve.
- d) Discuss how the congregation understands its role within the Presbytery Plan.
- e) Express what resources might help the congregation to better worship, witness, nurture and serve.
- f) Satisfy itself on the matters listed in Section 4(a) to (g) of the Act anent Local Church Review. [This may also be done as a separate exercise under the terms of Section 3 of the Overture]

### **The Presbytery Visit**

Having reflected on the meeting with key office-bearers the Presbytery Visiting Team will meet with the other office-bearers and members of the congregation. Already having a picture of the work and future desires of the congregation the Presbytery Visiting Team will review the congregation's work and explore the future direction of the mission of the congregation in a way that is appropriate to the congregation by facilitating a wide ranging discussion on the life of the congregation and parish and the mission of the congregation locally, nationally and globally.

### **Plan of Action**

The process should result in a Plan of Action for the congregation. The plan should bring together the vision of the congregation for its mission over the next 5 years, taking account of its present position, its capacity and finances.

This should highlight the following as a minimum:

- A plan of action for the forward mission and ministry of the Church with goals that are Specific, Measurable, Achievable, Realistic and Time-limited (SMART goals).
- Resources available locally including human resources, buildings and finance.
- New resources required and who shall provide them.

### **The Final Report**

The report should set recommendations, give advice, and where appropriate it should set a timetable for action, preferably, a timetable agreed with the Kirk Session. The Plan of Action outlined above should be included in the report. The report should outline the achievements of the congregation, any difficulties faced, and what Presbytery or the congregation itself can do to contribute to the welfare and development of the congregation.

The following questions are given as a helpful guide for the Presbytery Visiting Team to consider as they write their report. These are to be seen as neither exhaustive nor prescriptive:

Where things are going well:

- How can the Presbytery affirm and nurture this further?
- How can the Presbytery encourage the sharing of this vitality with others?

Where the congregation is facing up to specific challenges (internally or externally):

- What changes are needed in attitudes, relationships, strategy or structure?
- What specific resources are needed to meet this challenge eg developing worship, discipleship, practical skills in finance/fabric, deepening spirituality?
- What are the potential partnerships with other agencies, other churches?
- What support is needed to resolve internal conflict/dysfunction?

Where the congregation can no longer sustain this model of church life or engage in effective mission:

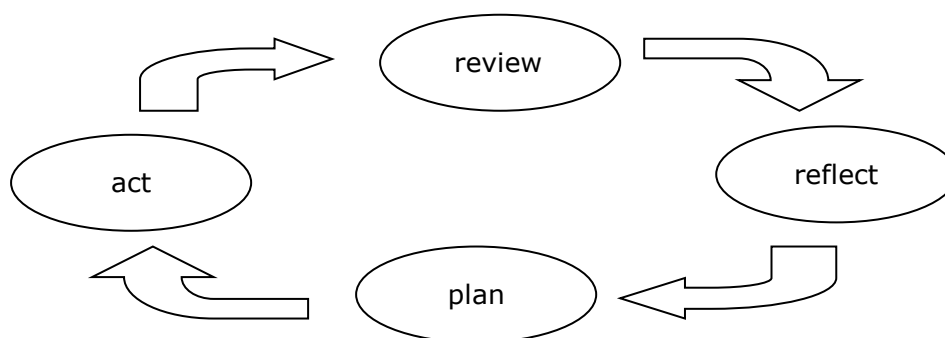
- What other form of Christian presence would they consider?
- What other partnerships would they consider?
- What resourcing is needed to equip the congregation for a new future?
- What is the pastoral process of closure and/or dissolution?

Where the congregation is no longer in synch with the community:

- What long-term process is needed to help them reconnect?
- How will this process be facilitated and by whom?

### Review as a Continuous Process

The process of review should be a continuous process and not just seen as that which is done by the Presbytery Visiting Team. The provision of good data provides the basis for good reflection, and is not an alternative to the reflection; the reflection provides the basis for a plan of action, and the plan of action leads to action. The cycle then repeats, the actions that are undertaken should be reviewed and reflected upon with a view to further improvement. This continuous cycle may be represented as follows:



### LOCAL CHURCH REVIEW INFORMATION REQUIRED IN ADVANCE

#### Factual Information

Please provide information and comment on the following areas of congregational life:

1. Membership: statistics for the past ten years including estimated age profile;
2. Worship: average weekly attendance (numbers, age profile, gender), style, musical range, use of audio visual equipment, innovations;
3. Pastoral Care: number of baptisms, weddings, funerals per year, specific demands of the situation, ways of sharing responsibilities;
4. Christian Nurture: numbers involved in Christian nurture: children, young people, young adults, adults; resources used;
5. Mission: specific mission initiatives – local or international, school involvement or other chaplaincies, evangelism training and strategies, communication;
6. Leadership: staffing, numbers of office-bearers including age and gender profile, training, structure, constitution;
7. Buildings: usage, state of repair, suitability, projects;
8. Finance: accounts, budget, allocations, shortfalls, Christian giving plans, special projects, statistics for givings over ten years;
9. Support for Minister or Ministry Team: administrative support, travelling expenses, study leave, additional staff needs;
10. Wider Church: relationship with Presbytery, Standing Committees of the General Assembly and ecumenical relationships;
11. Community: relationship with community groups or agencies;
12. Presbytery Plan: what are the interim steps and 10 year conclusions for your congregation in the Presbytery Plan? How do you see these working out?

### **Legal Information**

Please provide information on the following legal requirements that a congregation must fulfil:

1. The administration of the Sacrament of Baptism to infants in accordance with Act V, 2000;
2. Whether office-bearers are representative of the congregation's life, for example in terms of age and gender;
3. Whether the congregation's current form of constitution serves its future mission;
4. Whether the employment status of members of staff, the formal relationships among them and the prioritization of work amongst them serves the congregation's mission effectively;
5. Compliance by the Kirk Session with the church law and civil law relating to Safeguarding;
6. Compliance with those provisions of Act XII 2007 regarding the provision and maintenance of manses;
7. Implementation of the findings of the most recent property surveys.

**IX ORDAINED LOCAL MINISTRY ACT (ACT IX 2011) (AS AMENDED BY ACTS XII 2012, XIII 2014, VIII 2015, XI 2016, II AND VIII 2017, XII 2018, I, IV AND V 2019, X AND XVI 2020 AND XVI 2022)**

*Edinburgh, 26 May 2011, Session VI*

The General Assembly enact and ordain as follows:

**1. Definitions**

In this Act the following definitions apply:

- (a) “The Forum” is the General Assembly’s Faith Nurture Forum responsible for recruitment, selection and training for the ministries of the Church.
- (b) *This definition was repealed by Act XVI 2022.*
- (c) “The Assessment Conference” is the body of trained Assessors to which the Forum delegates authority to assess the calling and fitness of applicants for Ordained Local Ministry, and to accept as Prospective Candidates those deemed appropriate.
- (d) *This definition was repealed by Act XIII 2014.*
- (e) “Applicants” are persons who are seeking to be recognised as Candidates for the Ordained Local Ministry.
- (f) “Prospective Candidates” are persons who have been accepted by the Forum at an Assessment Conference and who are awaiting the outcome of their application to Presbytery for nomination.
- (g) “Candidates” are persons who have been both accepted by the Forum and nominated by their Presbytery. The term “Candidate” may not be used of or by any person who has yet to be, or who has failed to be, nominated by Presbytery.
- (h) “Presbytery of the bounds” is the Presbytery containing the larger or largest part of the area of the Ordained Local Minister’s responsibilities.

**2. General**

- (1) An Ordained Local Minister is a person who has been ordained for life to a Ministry of Word and Sacrament exercisable on a non-stipendiary and normally a part-time basis, supporting the Ordained National Ministry of the Church.
- (2) Except insofar as qualified by the terms of this Act, an Ordained Local Minister is hereby declared to be a Minister of the Church of Scotland. An appointment to a designated appointment is to an office of the Church of Scotland.
- (3) No person by virtue of his or her status as an Ordained Local Minister shall be eligible for induction to a Charge.

**3. Entrance Qualifications**

- (1) Applicants must be persons:
  - (i) who are possessed of such professional, vocational or educational experience as shall be acceptable to the Forum, and
  - (ii) who have demonstrated the potential to cope with and benefit from the academic course involved in training for the Ordained Local Ministry.
- (2) Proficiency in spoken and written English will be required.

**4. Discernment conversation and Initial Screening process**

- (1) A person wishing to apply for the Ordained Local Ministry of the Church of Scotland shall have a discernment conversation with a staff member of the Forum's Recruitment Team to determine how they will proceed, and should they subsequently make application, this will be followed by an Initial Screening process arranged by the Forum.
- (2) A person deemed ready to proceed after that screening process shall be entitled to apply in terms of section 6 to be recognised as a Candidate for the Ordained Local Ministry. Any person who makes such an application shall be known as an Applicant.
- (3) A person who is not deemed ready to proceed after that screening process must wait a period of between one and three years, as notified to that person by the Forum in writing, before they may again participate in an Initial Screening process. Forum.
- (4) The outcome of each Initial Screening process shall be final and not subject to any form of review or appeal.
- (5) The provisions of this section are subject to those of section 5.

**5. Age, Time and Membership Limits**

- (1) The Forum will not consider an application from any person who has not attained the age of eighteen years by the date on which the Forum receives the application. No upper age limit shall apply to application for acceptance for training.
- (2) The acceptance of a person as a Candidate may be reviewed by the Forum if that person's prescribed course of training has not been begun within three years of that acceptance.
- (3) The Forum will not normally consider an application from any person who has not been either a member or adherent of the Church of Scotland, or who has not been actively involved in a congregation of the Church of Scotland, or who has not been a member of a denomination belonging to the World Communion of Reformed Churches (WCRC), in any case for a period of three years immediately prior to receipt of the application.

**6. Submission of Application**

- (1) The Forum will, on request, issue to each Applicant who has fulfilled the requirements as set out in sub-section 4(2) and section 5 the relevant application, which shall be completed by the Applicant and sent to the Forum by the date determined and supplied by the Forum.
- (2) The Forum will inform Presbyteries of Applicants within their bounds, the appropriate Presbytery being determined according to section 9(2) of this Act.

**7. Period of discernment and Local Review**

- (1) Following the Forum's receipt of their application, the Applicant will enter a period of discernment with a Mentor. During the period of discernment, the Applicant and the Mentor shall explore together the nature of the Applicant's call and gifting. The period of discernment shall last for three to six months. The Mentor will be chosen by the Forum and shall undertake such training as may from time to time be specified by the Forum. The Mentor shall be responsible for supervising the period of discernment according to the guidelines and standards established by the Forum, and shall produce assessment materials as required



- using such *Indicators for Assessment* document as may be from time to time in use by the Forum. During the period of discernment the Applicant shall also meet regularly with a representative (or representatives) of Presbytery.
- (2) At the end of the period of discernment the Applicant shall proceed to a Local Review. The Local Review will be undertaken by a group consisting of a National Assessor appointed by the Forum, the Mentor and a representative appointed by the Presbytery. In the event that one of the three individuals undertaking the Local Review cannot attend the Local Review, it may still proceed if the Applicant consents.
  - (3) In addition, before the end of a period of discernment, the Presbytery or the Forum may require that an early Local Review takes place. Such a Review shall be undertaken by the same group as specified in section 7(2) but may only reach a decision in terms of section 7(4) (ii), (iii) or (iv). Sections 7(5) and 7(6) shall still apply.
  - (4) Subject to the provisions of section 7(3), arising out of the Local Review, one of the following written decisions shall be reported by the Review to the Forum:
    - (i) That the Applicant is ready to proceed to National Assessment in terms of section 8;
    - (ii) That the Applicant should undergo a further period of discernment of such length as may be determined by the Local Review before a decision to proceed to National Assessment can be made;
    - (iii) That the Applicant is not yet ready to proceed to National Assessment in terms of section 8;
    - (iv) That the Applicant is not suitable to proceed to National Assessment in terms of section 8.
  - (5) Applicants in respect of whom a decision is made in terms of paragraph 7(4)(iii) shall be subject to the terms of section 8A below.
  - (6) Applicants in respect of whom a decision is made in terms of section 7(4)(iv) may have a right of appeal in terms of section 8 below, subject to the terms of section 8B.
  - (7)
    - (i) All materials received by the Forum from the Local Review in terms of sub-section 7(4) shall be available to those making consideration in terms of sub-section 8(1).
    - (ii) No individual shall serve as an Assessor for the same Applicant more than once.

## 8. **National Assessment**

- (1) National Assessment shall consist of a conference at which there shall be careful consideration of the Applicant's character and beliefs, vocation, motivation and general suitability for Ordained Local Ministry in the Church of Scotland. The conference shall normally be an in-person residential event but the Forum reserves the right to hold an Assessment Conference online should circumstances make this necessary or desirable. At the Assessment Conference a decision shall be made as to whether or not the Applicant shall be accepted as a Prospective Candidate for the Ordained Local Ministry and the Presbytery shall be informed of the decision.
- (2) All Applicants who attend an Assessment Conference shall receive, as part of their training and development, feedback in the form of a report.

- (3) An Applicant who is accepted as a Prospective Candidate shall, following Assessment Conference, undergo a medical check and a Disclosure Scotland check in the form prescribed by the Forum and may only proceed as a Prospective Candidate if these checks are, in the opinion of the Forum, satisfactory. There shall be no appeal against the Forum's decisions on these matters.
- (4) An Applicant who has not been accepted as a Prospective Candidate shall be subject to the terms of section 8A below.
- (5) An Applicant who has not been accepted at Local Review in terms of a decision under section 7(4)(iii) or (iv) or who has not been accepted as a Prospective Candidate by an Assessment Conference may have the right to appeal to the Ministries Appeal Panel, subject to the provisions of section 8B. Notification of the intention to appeal shall be made to the Forum and to the Principal Clerk within 14 days of the date upon which Local Review or the Assessment Conference's decision, as the case may be, was intimated to the Applicant. At the Appeal Hearing the Applicant shall be entitled to appear either online or in person, as determined by the Forum, and to address the Panel. He or she may be accompanied by a companion, who shall not be entitled to speak to the Panel, but who may confer with the Applicant. A representative of the Forum shall also appear to present the case for the decision under appeal. All parties will be in possession of the reports from the Local Review and/or the Assessment Conference, as the case may be.
- (6) An appeal to the Ministries Appeal Panel can only be brought on one or more of the following grounds: (a) that in the course of the Local Review or Assessment Conference there were irregularities in the process, (b) that the final decision of the Local Review or Assessment Conference was influenced by incorrect material fact, or (c) that the Local Review or Assessment Conference acted contrary to the principles of natural justice.
- (7) The outcome of an appeal shall be either to uphold the decision of the Local Review or the Assessment Conference, as the case may be, or to annul that decision, in which case sub-sections (8) and (9) below will apply.
- (8) If the outcome of the appeal is to annul a decision, whether at Local Review or Assessment Conference, the person shall be treated as if they had not attended that Local Review or Assessment Conference, as the case may be, and shall be entitled to enter the Assessment process again on one occasion only at the stage of attending one further Local Review (and, if accepted there, one further Assessment Conference) or one further Assessment Conference, as the case may be. Such re-entry into the process must commence within one year of the appeal decision. Any further "non-accept" decision on that next occasion at either stage shall terminate that person's eligibility to enter the Assessment process under this Act and there shall be no further right of appeal.
- (9) If the outcome of the appeal is to uphold the decision of the Local Review or the Assessment Conference, as the case may be, that shall terminate the Assessment process for that person and they may not re-enter into it at any time.

#### **Opportunities to become a Prospective Candidate**

- 8A. (1) A person applying under this Act shall have three opportunities in total to progress through Initial Screening, Local Review and Assessment Conference to become a Prospective Candidate. Each time the person is not accepted shall

count as one “non-accept” decision. Once a total of three “non-accept” decisions have occurred, no further entry into the Assessment process, at any stage, will be possible for that person, save that a fourth application may be submitted only with the prior approval of the Forum. A person will however have rights of appeal as set out in section 8 above, subject to the terms of section 8B.

- (2) Following a “non-accept” decision at any stage, a person must wait for the period specified by the Forum, being a minimum period of one year, before being assessed again.
- (3) After any “non-accept” decision at any stage, a person who chooses to re-enter the Assessment process shall start again at section 4 ie at the stage of discernment conversation and Initial Screening.
- (4) For the purpose of this section, a decision at Local Review in terms of section 7(4)(iii) and also section 7(4)(iv) would each count as a “non-accept” decision.

### **Appeal at third “non-accept” decision only**

8B. A person shall have the right to appeal to the Ministries Appeal Panel following a third “non-accept” decision, whether that is at Initial Screening, Local Review or Assessment Conference.”

### **9. Nomination by Presbytery**

- (1) A Prospective Candidate seeking nomination by the appropriate Presbytery as a Candidate for the Ordained Local Ministry of the Church of Scotland shall apply in writing to that Presbytery as soon as, but not before, the Forum indicates acceptance as a Prospective Candidate for the Ordained Local Ministry.
- (2) Application for nomination shall normally be made to the Presbytery within whose bounds is situated the congregation of which the Prospective Candidate is a communicant member, or with reference to section 5(3), in exceptional circumstances where the person is not yet a member of the Church of Scotland, to the Presbytery in which the Applicant is resident.
- (3) If satisfied with the Prospective Candidate’s character, beliefs, vocation, motivation and general suitability, the Presbytery shall then nominate him or her as a Candidate for the Ordained Local Ministry and shall give notice of such nomination to the Forum forthwith.
- (4)
  - (a) A Prospective Candidate who has been refused nomination by the Presbytery has the right of appeal to the Ministries Appeal Panel. The Prospective Candidate may in any event submit a re-application for nomination on up to two further occasions, provided that at least one year elapses between each application.
  - (b) Notification of the intention to appeal to the Ministries Appeal Panel shall be made to the Forum and to the Principal Clerk within 14 days of the date upon which the Presbytery’s decision was made. At the Appeal Hearing the Prospective Candidate shall be entitled to appear either online in person, as determined by the Forum, and to address the Panel. He or she may be accompanied by a companion, who shall not be entitled to speak to the Panel, but who may confer with the Prospective Candidate. Such an appeal can only be brought on one or more of the following grounds: (a) that there were irregularities in the process, (b) that the final decision was influenced by incorrect material fact, or (c) that the Presbytery acted contrary to the principles of natural justice.

**10. Content of Academic Course**

The Candidate's course of study shall always include:

- (1) the interpretation and use of Holy Scripture, both Old and New Testaments;
- (2) the development and growth of the Christian Church including special reference to the Church of Scotland;
- (3) the principal doctrines of the Christian faith, their interpretation, their defence and their application, in particular, the history and theology of the Sacraments;
- (4) the principles of Christian ethics;
- (5) the practice of ministry with attention being given to such topics as may be specified from time to time by the Forum; and
- (6) such other academic and practical topics as may from time to time be considered as part of the Candidate Conference programme provided by the Forum.

**11. Nature and Duration of Academic Course**

- (1) Study will normally be undertaken on a part-time basis. A Candidate for the Ordained Local Ministry will be required to undergo the course of training as prescribed by the Forum.
- (2) Each Candidate shall be required to attend such periods of residential or day training as the Forum may from time to time deem appropriate.
- (3) The course of training shall extend over a period to be determined from time to time by the Forum.
- (4) The content of the said academic course and its duration may be varied at the discretion of the Forum, but only where a Candidate has already attained a qualification in theology deemed appropriate by the Forum in the context of the academic course prescribed for the Ordained Local Ministry.

**12. Placements**

- (1) As part of the Church requirements, three periods of placement work shall be undertaken by the Candidate, and must be completed to the satisfaction of the Forum which shall determine the length and content of each placement. The placements shall normally include two during the academic course which shall be part-time and shall last not less than twenty-five weeks and one part-time probationary placement of twelve months normally commencing on the first day of October following satisfactory completion of academic requirements; the Forum shall have power in exceptional circumstances to vary this arrangement. During the probationary placement the Candidate may be permitted to engage in some academic study.
- (2) The supervisor of each placement will be chosen by the Forum and shall undertake training as specified by the Forum. The supervisor shall be responsible for supervising the placement according to the guidelines and standards established by the Forum, and shall produce assessment materials as required.
- (3) The assessment materials shall be assessed by the Forum. It shall be competent for the Forum to refuse to sustain a placement.
- (4) The Forum shall obtain from the Candidate evidence that he or she has satisfactorily completed the prescribed course of study, whereupon the Candidate will be permitted to commence the final placement.

13. **Supervision during Course**

Throughout the course of training a Candidate must remain under the oversight and pastoral supervision of a Presbytery, initially the Presbytery which nominated him or her, and shall inform the Presbytery of any change of address.

14. (1) Where a Candidate's permanent place of residence changes following nomination so that the oversight and pastoral supervision of the nominating Presbytery is no longer possible, the Candidate shall, within two months of changing residence, apply in writing to the nominating Presbytery, to be transferred to the supervision of the Presbytery within whose bounds he or she now resides. On granting such application the Presbytery shall forward an Extract Minute to that effect to the Candidate, to the Presbytery within whose bounds the Candidate now resides, and to the Forum.
- (2) Prior to each official meeting with the Candidates under its supervision the Presbytery shall initiate consideration of the circumstances of any Candidate who has thus changed his or her permanent place of residence but who has not made formal application to transfer. The Presbytery shall thereafter raise with the Candidate concerned the question of which Presbytery might most appropriately be responsible for the continuing supervision, and shall have power to effect a transfer to that Presbytery within whose bounds the Candidate now has permanent residence. When such a transfer is effected an Extract Minute to that effect shall be sent forthwith to the Candidate, to the Presbytery within whose bounds he or she now resides, and to the Forum.

15. **Initial Course Meeting**

- (1) At the outset of the Candidate's course an Initial Course Meeting shall be held, attended by the candidate and whichever member of the staff of the Forum has been allocated responsibility for the care of the Candidate.
- (2) At the Initial Course Meeting the Candidate will receive a personalised training plan, training policies (including the performance review policy) and an outline of expectations and responsibilities. Academic, practical and personal goals for the first year of training will be agreed. At the beginning of each placement a Learning Covenant will be agreed by the supervising minister and the Candidate on placement.
- (3) Other tasks of the Initial Course Meeting, and its structure and procedure, shall be determined from time to time by the Forum.

16. **Annual Appraisal**

- (1) An Annual Appraisal Meeting shall take place at the end of each academic year in which training has been undertaken, whether or not a Candidate has undertaken academic study during that year, and shall be carried out in terms of this section except during the final, probationary placement when the provisions of section 17 shall apply. The functions of each Meeting shall be to confirm satisfactory progress, to set formation and learning goals through a facilitated conversation and discussion, and to implement the performance review policy if applicable.
- (2) The member of staff of the Forum who has been allocated responsibility for the Annual Appraisal Meeting shall receive written reports from the Candidate, the

- supervising minister (if any) and the College (if academic study has been undertaken during the year); and shall use them along with the Formation Framework to prepare a Pre-Appraisal Form, to be circulated to all those attending the Annual Appraisal Meeting, containing a positive or negative recommendation regarding the Candidate's progress. A copy of the Pre-Appraisal Form shall also be sent to the Forum, for oversight purposes.
- (3) A positive recommendation on the Candidate's progress shall include a recommendation that one of the following conclusions be reached after the Annual Appraisal Meeting:
    - (a) that progress is entirely satisfactory; or
    - (b) that pieces of work require to be completed, or areas of work require to be improved, within a period of time to be specified in the report.
  - (4) A negative recommendation on the Candidate's progress shall include a recommendation that one of the following conclusions be reached after the Annual Appraisal Meeting:
    - (a) that pieces of work require to be completed, or areas of work require to be improved, within a period of time to be specified in the report; or
    - (b) that an extension of training requires to be arranged by the Forum and a further, final Annual Appraisal conducted (this option may be exercised only once in any academic year); or
    - (c) that the candidature should be terminated.
  - (5) At the Annual Appraisal Meeting the following shall apply:
    - (i) The Candidate may be accompanied by a companion, who may be the supervising minister of the candidate's most recent placement; the companion shall not be entitled to speak.
    - (ii) No-one may act as a representative of Presbytery who has not received the appropriate training as shall be determined and provided by the Forum.
    - (iii) The representative appointed by Presbytery shall be appointed with powers to make decisions on behalf of Presbytery; the member of staff appointed by the Forum shall be appointed with powers to make decisions on behalf of the Forum.
    - (iv) In the case of a Pre-Appraisal Form containing a positive recommendation, in attendance shall be the Candidate, the member of staff of the Forum who has been allocated responsibility for the Appraisal and a representative of Presbytery.
    - (v) In the case of a Pre-Appraisal Form containing a negative recommendation, in attendance shall be the Candidate, the member of staff of the Forum who has been allocated responsibility for the Appraisal, a member or representative of the Forum and a representative of Presbytery. In this situation, the Candidate shall be notified prior to the Annual Appraisal Meeting that there are concerns regarding their performance and that a member of the Forum shall be present.
    - (vi) The Meeting shall be co-convened by the member of staff of the Forum and the representative of Presbytery.
  - (6) At the Annual Appraisal Meeting the Candidate's progress shall be confirmed, and learning and formation goals for the following year shall be set with reference to the Formation Framework.
  - (7) Following the Annual Appraisal Meeting, an Appraisal Report will be prepared by the member of staff of the Forum who has been allocated responsibility for the

Appraisal and circulated within 3 working days of the Meeting to all those who attended the Meeting. If the Candidate dissents from the Report or any part thereof, his or her dissent and the reasons for it shall be recorded in the Report, but shall not alter the status of the Report of the purposes of this Act.

- (8) The Appraisal Report shall contain one of the following decisions:
  - (a) that progress is entirely satisfactory; or
  - (b) that pieces of work require to be completed, or areas of work require to be improved, within a period of time specified in the Report.
  - (c) that an extension of training requires to be arranged by the Forum and a further, final Annual Appraisal conducted (this option may be exercised only once in any academic year); or
  - (d) that the candidature should be terminated.
- (9) The Candidate may appeal to the Ministries Appeal Panel against a decision in terms of sub-sections 16(8) (c) or (d) on one or more of the following grounds:
  - (a) that in the course of the Annual Appraisal there were irregularities in the process, (b) that the final decision was influenced by incorrect material fact, or (c) that the Annual Appraisal was conducted contrary to the principles of natural justice. Notification of the intention to appeal shall be made to the Forum and to the Principal Clerk within 14 days of the date upon which the Appraisal Report was intimated to the Candidate. At the Appeal Hearing the Candidate shall be entitled to appear in person and the representative of Presbytery who co-convened the Annual Appraisal Meeting shall also appear to present the case for the Annual Appraisal decision. The Candidate may be accompanied by a companion, who shall not be entitled to speak.
- (10) Other tasks of the Annual Appraisal Meeting shall be as determined from time to time by the Forum.
- (11) Notwithstanding the above provisions, at any time during candidature, an Appraisal Meeting with full powers may be held.

#### 17. **Final Appraisal and sustaining the course**

The review process during the final probationary placement shall be as follows:

- (1) After six months, an Informal Appraisal of the Candidate's progress shall take place, conducted by the member of staff of the Forum who has been allocated responsibility for the Informal Appraisal. Prior to the Informal Appraisal, the member of staff shall informally consult with the supervising minister and the Presbytery. Any concerns shall be addressed either informally or by recourse to the procedures set out in section 18.
- (2) The Final Appraisal shall be held in the twelfth month. The Final Appraisal shall follow the procedure described in section 16; and in addition to the decision reached in terms of sub-section 16(8), it shall be decided whether the final placement can be sustained and whether the Candidate is fit to be ordained in due course. The Presbytery representative shall be appointed in such a way as to have powers to indicate the final approval of the Presbytery at this stage; the member of staff of the Forum who has been allocated responsibility for the Final Appraisal shall be granted power to indicate the final approval of the Forum at this stage.
- (3) Where such approval has been given, the Forum shall satisfy itself that the requirements of sections 10, 11 and 12 have been fulfilled, including all academic requirements. Provided all such requirements are satisfied, the Forum

shall have the power to issue an Exit Certificate upon completion of the probationary placement, at which point the Candidate shall become a Graduate Candidate and shall then remain under the supervision of the Presbytery within whose bounds the final placement was undertaken, pending ordination to an appointment.

- (4) The Presbytery shall in each calendar year assess in terms of the criteria set out in section 9(3) above, the general suitability of each Graduate Candidate and, if satisfied, shall issue a Graduate Candidate's Certificate confirming continuing approval, and shall advise the Forum by 31 December. Candidates will have a right of appeal in the event of the Presbytery declining to issue a Certificate.
- (5) A Presbytery must obtain a current Graduate Candidate's Certificate for any Graduate Candidate whose call or appointment is to be sustained by that Presbytery after 31 December of the year in which his or her Exit Certificate was awarded.

#### 18. **Complaints Procedure**

Subject always to the provisions of the Discipline Act (Act I 2019), which shall apply in respect of a Disciplinary Complaint (as that term is defined in the Discipline Act) relating to a Candidate, Probationer or Graduate Candidate (as those terms are used in this Act), the provisions of this section shall apply:

- (a) where any party to an *Expectations and Responsibilities* document claims that another party is in breach thereof; or
- (b) where the Presbytery or the Forum claim that a Candidate has failed to fulfil his/her obligations under the agreed *Learning Covenant*; or
- (e) where a material complaint is made to the Forum or Presbytery about the Candidate's conduct during training.

Any such claim or complaint shall be intimated by lodging with the Leader of the Training Task Group a written statement providing specific details thereof. The Leader of the Training Task Group shall intimate the statement to all parties to the document or covenant, and the statement shall be retained by the Forum for a period of one year.

19. (1) As soon as is reasonably practicable after receipt of the statement referred to in section 18, one of the Forum's staff shall meet with all relevant parties and seek to resolve such claim or complaint to the satisfaction of all concerned.
  - (2) In the event that such resolution is not possible, any party to the document or covenant may request a formal meeting of all parties in order to determine what is required to effect resolution.
  - (3) Such a formal meeting shall be attended by up to two representatives of each of the parties to the document or covenant, and shall be called by the Forum and shall be convened by a staff member of the Forum, who will notify all parties in writing of the conclusions of the meeting. Such notification shall provide details of the consequences that will ensue in the event of failure by any parties to adhere to the conclusions of the meeting.
  - (4) The provisions of this section 19 shall not apply where the Forum makes a resolution in terms of section 20(2) below.
20. (1) In the event that no agreement is reached between parties at such a formal meeting as to the facts, or no agreed resolution is reached; or in the event that



- any party fails to adhere to the agreed conclusions, the Convener of the Forum shall convene a Hearing of all relevant parties.
- (2) Furthermore, the Forum shall have power to resolve that it will not be possible to reach a resolution under a section 19 process, in which case the Convener of the Forum shall convene a Hearing of all relevant parties without recourse to the procedure set out in section 19.
  - (3) The Hearing shall be held as soon as is reasonably practicable. At such a Hearing the Candidate shall be present and may be accompanied by a companion who shall not be entitled to speak. The panel for the Hearing, in addition to the Convener, shall comprise two representatives of Presbytery and two representatives of the Forum, none of whom shall have had prior personal involvement with the claim or complaint giving rise to the Hearing. The two representatives appointed by Presbytery shall be appointed with powers to make decisions on behalf of Presbytery. A Forum staff member shall attend as an adviser.
  - (4) In the event that the claim giving rise to the Hearing relates to a breach by the Forum, or that the failure is by the Forum, the Hearing shall be convened by the Convener of the Forum and not as in sub-section (1) hereof.
  - (5) At the Hearing all parties thereto shall be entitled to present evidence, to question witnesses and to make a concluding statement. At the conclusion of the Hearing, or as soon as may be practicable thereafter, the panel shall issue its decision and advise all parties. Such a decision shall be final and binding on all parties, subject only to appeal to the Ministries Appeal Panel in terms of Act VI 2007 on the following grounds: (a) an error in Church law; (b) breach of the principles of natural justice or material irregularity of process; (c) decision influenced by incorrect material fact; and (d) the severity of any sanction imposed. The intention to appeal shall be intimated to the Forum within 21 days of the panel's decision.

## 21. **Ordination and Notification**

- (1) A Presbytery may not ordain any Candidate into a designated Ordained Local Ministry appointment until it has received an Exit Certificate from the Forum.
- (2) Presbyteries shall be responsible for sending to the Forum and to the Editor of the Year Book extract Minutes certifying the ordination of Ordained Local Ministers. Similar notification must be sent for each new designated appointment undertaken by an Ordained Local Minister.
- (3) After ordination the Forum shall cease to be responsible for the supervision of the Candidate concerned.

## 22. **Appointments and Reviews**

- (1) An Ordained Local Minister may serve in one or more Presbyteries of the Church of Scotland, undertaking such designated appointments as the Presbyteries may from time to time determine. If the appointment is to a particular charge or charges, the approval of the Kirk Session(s) will also be sought.
- (2) The conditions regulating each designated appointment shall be defined in writing by the Presbytery of the bounds in consultation with the Ordained Local Minister and all interested parties (including any relevant Kirk Sessions).
- (3) The Presbytery of the bounds shall be entitled at any time to carry out a review of any designated appointment, and in the light of such review to

- (i) suspend or terminate the appointment;
  - (ii) renew the appointment;
  - (iii) vary the conditions regulating the appointment.
- (4) 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 II 2017).

**23. Relationship with Courts of the Church**

- (1) An Ordained Local Minister shall be associated with the Kirk Session of any Parish or Parishes within which he or she is to operate. He or she shall be entitled to membership of Presbytery. Where an Ordained Local Minister serves in more than one Presbytery, he or she shall have membership of the Presbytery of the bounds. Where there is an equal division of responsibilities between designated appointments, the Ordained Local Minister shall choose the Presbytery of which he or she is a member, but shall be subject to both or all Presbyteries.
- (2) 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 II 2017).

**24. In-Service Training**

While in active service, Ordained Local Ministers shall engage in regular in-service training. For those who have completed the basic course of academic training in theology, this will normally mean continuing part-time study towards diploma or degree standard. The individual course of study will be determined by the Presbytery in consultation with the Forum. If an individual has achieved degree standard in theology, an individual learning plan will be negotiated to ensure an ongoing commitment to continuing ministerial development. This will be approved annually by the appropriate Committee of Presbytery, who shall liaise with the Forum on availability of courses and appropriate funding.

**25. Remuneration**

- (1) Ordained Local Ministry is a non-stipendiary form of ministry and no remuneration shall be offered which is directly related to the appointment as an Ordained Local Minister.
- (2) An Ordained Local Minister shall be entitled to a regular Pulpit Supply Fee when conducting worship other than in his or her regular appointment.
- (3) Remuneration for any other appointment, for example as a *Locum* or in chaplaincy which the Presbytery has approved in addition to the designated appointment, shall be at the normal rates set by the Church from time to time.
- (4) Reasonable expenses incurred wholly and necessarily in the course duties shall be reimbursed at the rates printed annually in the report of the Forum to the General Assembly.
- (5) The Forum shall offer to every Ordained Local Minister in a designated appointment an annual resource grant at an amount to be fixed annually by the Forum and reported to the General Assembly. The grant will be available for the purchase of resources (eg. books; computer hardware or software; periodicals) to be used in the fulfilment of ministerial duties. The grant shall be awarded on the production of receipts. The Forum shall be entitled to seek contributions

towards such grants from the Presbytery or Presbyteries designating the Ordained Local Minister's appointment.

26. **Transfer to the Ordained National Ministry**

*This section was deleted by Act V 2019.*

27. **Transfer from Auxiliary Ministry to Ordained Local Ministry**

- (1) From the date on which this Act comes into force, no new applications for Auxiliary Ministry will be received by the Forum.
- (2) Auxiliary Ministers currently serving may make application to the Forum for transfer to Ordained Local Ministry without the need for further assessment or training.
- (3) Candidates currently in training for the Auxiliary Ministry shall transfer immediately to Ordained Local Ministry training.

28. **Transfer from Auxiliary Ministry to Ordained National Ministry**

*This section was deleted by Act V 2019.*

29. **Transfer from Readership to Ordained Local Ministry**

(1) *This section was deleted by Act V 2019.*

(2) *This section was deleted by Act XII 2018.*

30. **Repeal**

Sections 3 – 14 of Act XIII 2003 are hereby repealed.



## **X. CO-OPERATION AMONG PRESBYTERIES ACT (ACT X 2012)**

*Edinburgh, 19 May 2012, Sess. I*

The General Assembly hereby enact and ordain as follows:

### **1. Definitions**

For the purposes of this Act:

- (a) 'appointing Presbytery' is a Presbytery which has appointed a member of another Presbytery to any of its Committees, other than an excluded Committee;
- (b) 'co-operating Presbytery' is a Presbytery which, together with one or more other Presbyteries, appoints a Joint Committee; and
- (c) 'Joint Committee' is a Committee appointed by one or more co-operating Presbyteries.
- (d) 'excluded Committee' is a Presbytery Committee or Commission listed in in Act VI, 2002 (as amended), section 2.

### **2. Appointment to Presbytery Committees**

- (1) For the purpose of enabling it to fulfil its duties better, an appointing Presbytery may appoint one or more members of one or more other Presbyteries to any of its Committees, other than an excluded Committee.
- (2) Any member of another Presbytery appointed in terms of section 2(a) above:
  - (a) shall not thereby become a member of the appointing Presbytery;
  - (b) shall, in the exercise of his or her responsibilities on the Committee of the appointing Presbytery, be deemed to be a full member of that Committee; and,
  - (c) shall, in the exercise of his or her responsibilities on the Committee, be entitled to have his or her reasonable expenses reimbursed by the appointing Presbytery.

### **3. Joint Presbytery Committees**

- (1) For the purpose of enabling them to fulfil their duties better, two or more co-operating Presbyteries may appoint one or more joint Committees for any purpose other than to fulfil the functions of an excluded Committee. Any of the co-operating Presbyteries may withdraw from a Joint Committee at any time.
- (2) A Joint Committee shall be deemed to be a Committee of each of the co-operating Presbyteries. Each of the co-operating Presbyteries shall meet the reasonable expenses of its own members appointed to a Joint Committee.
- (3) A Joint Committee shall have only such remit and powers as are granted to it by agreement among the co-operating Presbyteries, which remit and powers may be varied or rescinded at any time by agreement among the co-operating Presbyteries. The co-operating Presbyteries may grant only such remit and powers to a Joint Committee as may be competently granted by a Presbytery to one of its Committees.
- (4) A Joint Committee shall act under the supervision of and report to each of the co-operating Presbyteries in respect of matters of common interest. Otherwise, a Joint Committee shall act under the supervision of and report to a particular co-operating

Presbytery in respect of matters of interest to that Presbytery.

**4. Repeal**

Nothing in this Act shall be taken to be an amendment or qualification of either Act V, 2001 or Act VI, 2002.

## **XI LOCAL ECUMENICAL PARTNERSHIPS ACT (ACT XI 2012)**

*Edinburgh, 23 May 2012, Sess. V*

### **Definitions**

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

- (a) "LEP" shall mean a Local Ecumenical Partnership adopting a uniting constitution in the form set out from time to time approved by the General Assembly and comprising a company of persons associated together for Christian worship, fellowship, instruction, mission and service on an ecumenical basis whose names are on the Roll of Communicants and Adherents kept for the LEP and who are under the pastoral oversight of a minister or ministers appointed as herein provided and under the pastoral and temporal oversight of the Scottish Churches National Sponsoring Body for Local Ecumenical Partnerships.
- (b) "The Presbytery" shall mean the Presbytery of the bounds of the Local Ecumenical Partnership concerned.
- (c) "The participating congregation" shall mean a Charge where, prior to its constitution as such, there has been a congregation of the Church of Scotland having full status which has resolved at a Congregational meeting called for that purpose, that it shall adopt the status of, and be constituted as, a Local Ecumenical Partnership, whether in the same or a different place. There may be one or more participating congregations in an LEP.
- (d) "The participating denominations" shall mean those denominations whose congregations are involved in the LEP.
- (e) The "National Sponsoring Body for Ecumenical Partnerships in Scotland" ("NSB") shall mean the body under the auspices of Action of Churches Together in Scotland ("ACTS") which negotiates agreement between the churches on matters related to Local Ecumenical Partnerships and which instigates an agreed process of visitation and review.

### **Preliminary Steps**

2. At the request of the congregation and having sought the guidance of the Ecumenical Officers of the denominations involved, under the auspices of the NSB, the Kirk Session of the participating congregation should seek the concurrence of the Presbytery of the Bounds. Concurrence should also be sought from the

- (a) the Faith Nurture Forum, with respect to any required re-allocation of endowments;
- (b) the Church of Scotland General Trustees;
- (c) the Assembly Trustees and the Faith Nurture Forum, 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 and Plan of Union (appropriately adapted to fit the circumstances applicable) shall be drawn up under the guidance of a group comprising: the existing clergy, two office-bearers of each congregation, a member from the appropriate Committee of Presbytery and the equivalent in the other denomination(s) and the Ecumenical Officers of the denominations involved ("Draft Basis"). The terms of the Draft Basis shall be presented to meetings of each participating congregation and then, if thereat approved, to the Presbytery for its concurrence, declaring that no Draft 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. In the event that title to any heritable property belonging to the congregation is vested in Trustees other than the Church of Scotland General Trustees, the Draft Basis shall provide

for same to be transferred to and vested in the General Trustees and such transfer shall be effected prior to the constituting of the LEP.

4. There shall be transmitted thereafter by the participating congregations to the Ecumenical Relations Committee the following documents:

- (a) A copy of the Basis ("Basis") together with extract minutes of concurrence from the participating congregations.
- (b) An extract minute of the Presbytery containing its concurrence with the Basis and Plan of Union.
- (c) An Extract Minute of the Church of Scotland General Trustees concurring with the proposals.

5. The Ecumenical Relations Committee shall thereafter decide whether to recognise the LEP. The Ecumenical Relations Committee shall thereafter report the recognition of the LEP to the General Assembly.

6. The Presbytery, following upon approval of the Basis by it and the NSB and following upon the receipt of an extract minute of the Ecumenical Relations Committee recognising the LEP shall then proceed together with the appropriate body/bodies in the other participating denomination(s) to arrange the formal execution of the Constitution at an act of public worship.

7. It is declared, for the avoidance of any doubt, that on the LEP being constituted, the legal identity of the participating congregation (notwithstanding the dissolution of the Kirk Session and the Financial Board thereof ) shall be continued within the LEP, which shall, except in so far as otherwise provided for herein or in the Basis of the LEP, assume all rights and responsibilities of the participating congregation, and to which except as is otherwise provided herein shall continue to belong all property and funds belonging to, or held for, the participating congregation.

8. It is further declared that LEPs 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.

#### **Appointment of Ministers**

9. On the occurrence of a vacancy, joint appraisal shall take place by the denominations involved with a view to the future level of ministry required. The Presbytery shall appoint representatives who, together with representatives of the other denomination(s) involved, shall review the Charge, for Church of Scotland purposes to fulfil the requirements of Act VII 2003. Where it is agreed that ministry should be supplied by the Church of Scotland the provisions of Act VIII 2003 shall apply, *mutatis mutandis*.

10. The Presbytery shall induct the Minister to the LEP having regard to the ecumenical nature of the appointment.

11. 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 LEP.

12. A Church of Scotland minister shall be responsible to the Presbytery for the development of the LEP.

13. The minister of the LEP shall, upon signing the Formula, have a seat in Presbytery and shall be responsible to the Presbytery for matters of life and doctrine. Where the minister is



not from the Church of Scotland but is the sole minister in the LEP, he/she will, upon signing the formula, have a seat in Presbytery. Where there is more than one minister appointed to the LEP, provided one is from the Church of Scotland, all others shall be corresponding members of Presbytery.

### **Financial Arrangements and Responsibilities**

14. The stipend payable to the minister of a LEP shall be the stipend to which he or she would be entitled under the prevailing stipend structures of his/her denomination.

15. The congregation will be assessed for ministry contributions and for the wider work of the church according to the provisions of Regulations 1, 2007 or such other Regulations or other provisions as may subsequently replace them following upon consultation with the finance offices of the participating denominations.

### **Review Procedure**

16. The Review Procedure shall be as approved by the denominations through the NSB and incorporated into Act I, 2011.

17. The Charity Trustees of the LEP shall be entitled to apply to the General Trustees requesting the sale of any redundant heritable property vested in the General Trustees and to apply the sale proceeds towards the acquisition costs of any new buildings to which title shall be taken in name of the General Trustees, with the balance, if any, to be held and applied by the General Trustees as a fund for the maintenance of the properties being used by the LEP which are vested in name of the General Trustees. Where there are funds credited for the benefit of the participating Congregation of the LEP in the Consolidated Fabric Fund, the Church of Scotland General Trustees shall hold these for the purposes of maintenance of properties vested in them being used by the LEP.

18. The Charity Trustees of the LEP shall be responsible for the maintenance and insurance of all the heritable properties of the LEP and for all other outgoings with respect thereto.

19. The Presbytery within whose bounds the LEP is situated shall, at the expense of the LEP, commission and obtain professional reports on the condition of the ecclesiastical properties of each LEP which are vested in the General Trustees 5 years after its constitution and thereafter at intervals of not more than 5 years from the date of the previous report. With regard to the buildings vested in the General Trustees, the LEP shall be bound by the terms of the Act anent The Care of Ecclesiastical Buildings (Act XII 2007).

## **MODEL CONSTITUTION FOR A SINGLE CONGREGATION LOCAL ECUMENICAL PARTNERSHIP**

This Constitution was adopted on [date] [and amended on [date(s)]] and relates to the charitable unincorporated association governed by this Constitution and known as [name].

### **Introduction**

1. In this Constitution (including the Schedule to it) the following expressions have the following meanings:

- (a) the Act means the Charities and Trustee Investment (Scotland) Act 2005 or any statutory re-enactment or modification thereof;
- (b) the "Area of Benefit" means the area of benefit specified in paragraph 2 of the Schedule [to be determined by the participating denominations and when the Church of Scotland is involved shall comprise the Parish area as from time to time to be determined by the

- appropriate presbytery in conjunction with the other participating denominations];
- (c) “charitable purpose” means a charitable purpose under section 7 of the Act which is also regarded as a charitable purpose in relation to the application of the Taxes Acts;
  - (d) “the Charity” means the charity constituted by this Constitution;
  - (e) “Congregational Meeting” means a meeting of the Members;
  - (f) “Co-opted Trustees” means Trustees appointed by the Trustees under clause [21c)];<sup>4</sup>
  - (g) “Elected Trustees” means Trustees elected under clause [21(b)];
  - (h) “The LEP” means the Local Ecumenical Partnership specified in paragraph 1 of the Schedule;
  - (i) “the Members” means the members of the Charity;
  - (j) OSCR means the Office of the Scottish Charity Regulator as established by section 1 of the Act;
  - (k) “the Participating Churches” means the Churches specified in paragraph 4 of the Schedule;
  - (l) “the Participating Denominations” means the denominations specified in paragraph 3 of the Schedule;
  - (m) “the Schedule” means the Schedule to this Constitution;
  - (n) “the Sponsoring Body” means the Scottish Churches National Sponsoring Body for Ecumenical Partnerships in Scotland as established by the Participating Denominations and others for the oversight of LEPs;
  - (o) “the Trustees” means the body of trustees constituted by clause [21] of this Constitution (who are the charity trustees of the Charity for the purposes of the Act).

### **Purpose of the Charity**

2. The purpose of the Charity is to advance the Christian faith in accordance with the principles and practices of the Participating Denominations.

3. In achieving its purpose, the Charity will engage in a range of activities, either on its own or with others, including (but not restricted to):

- (a) the celebration of public worship;
- (b) the teaching of the Christian faith;
- (c) mission and evangelism;
- (d) pastoral work, including visiting the sick and the bereaved;
- (e) the provision of facilities with a Christian ethos for the local community, including (but not restricted to) the elderly, the young and other groups with special needs; and
- (f) the support of other charities in the UK and overseas.

### **Membership of the Charity**

4. The duly authorised ministers for the time being of the LEP (whether ordained or lay) are Members by virtue of their office.

5. Other persons shall be entitled to membership of the Charity if entitled to membership in accordance with the provisions of the Schedule.

6. The Trustees must keep a register of Members. The register must record the name, address and any denominational affiliation within the LEP of each Member.

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<sup>41</sup> In most cases this would only occur where a trustee has resigned *etc* and are for the purpose of filling a vacancy which arises between AGMs; such appointments need to be regularised at the next annual meeting. Most denominations do not have co-opted trustees in any other circumstances.

7. Membership of the Charity shall be terminated if the Member concerned:
  - (a) gives written notice of his or her resignation to the Trustees;
  - (b) ceases to be entitled to membership of the LEP (including as a result of any disciplinary procedure conducted by one or more of the Participating Denominations conducted in accordance with paragraph 12 of the Schedule); or
  - (c) dies.
8. Membership of the Charity is personal and not transferable.

### **Congregational meetings**

9. There shall be the following kinds of Congregational Meeting of the Charity:
  - (a) Annual Congregational Meetings;
  - (b) Ordinary Congregational Meetings<sup>5</sup>
  - (c) Special Congregational Meetings;
10. Congregational Meetings shall be convened by or on behalf of the Trustees, either:
  - (a) by giving verbal notice at each service of public worship held in the LEP on the two Sundays (or, in the case of a Special Congregational meeting, the three Sundays) immediately preceding the date of the Congregational Meeting; or
  - (b) by giving 14 days' (or, in the case of a Special Congregational Meeting, 21 days') notice in writing or electronically sent to the addresses recorded for the Members in the register of Members;
11. An Annual Congregational Meeting must be held within 12 months of the adoption of this Constitution and once in every subsequent calendar year.
12. The business of an Annual Congregational Meeting is to:
  - (a) receive the report of the Trustees on the Charity's activities since the previous Annual Congregational Meeting;
  - (b) elect Trustees from among the Members by processes that are clear and open and consistent with the practices of the Participating Denominations;
  - (c) receive the accounts of the Charity for the previous financial year;
  - (d) appoint an auditor or independent examiner for the Charity; and
  - (e) consider any other business put before it by the Trustees.
13. [An Ordinary Congregational Meeting shall be convened on not less than three occasions in each calendar year.]
14. [The business of an Ordinary Congregational Meeting is to:
  - (a) review the life and witness of the LEP;
  - (b) consider topics relevant to the local and wider witness of the LEP;
  - (c) receive reports covering all aspects of the life of the LEP;
  - (d) consider matters brought to it by the Trustees, so as to offer advice or guidance (to which the Trustees must have regard), and to indicate support as required;
  - (e) help to shape the life, work and vision of the LEP.]
15. A Special Congregational Meeting may be called at any time by the Trustees and must be called by them within 21 days after receiving a written request from at least one-tenth of the

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<sup>5</sup> [Clauses 9b, 13 and 14 should be included when at least one participating Church requires ordinary congregational meetings to be held; in other cases they are optional.]

Members for the time being.

16. In the case of a Special Congregational Meeting the notice of the meeting must include an indication of the business to be transacted.

17. The business of a Special Congregational Meeting shall comprise that referred to in the notice convening it and no other.

18. No business shall be conducted at any Congregational Meeting unless at least *[number]*, or *[one-third]* of the number of Members for the time being (if greater), are present.<sup>6</sup> The chair of the Trustees or (if the chair is unable or unwilling to do so) some other Member elected by those present shall preside at any Congregational Meeting.

19. Except as otherwise provided in this Constitution, every issue at a Congregational Meeting shall be determined by a simple majority of votes cast by the Members present and voting.

20. Except for the chair of the meeting, who in the case of an equality of votes has a casting vote only, every Member present in person at any Congregational Meeting is entitled to one vote on every issue.

### **Trustees**

21. The Charity shall be administered and managed by a body of trustees consisting of:

- (a) *ex officio* Trustees, being the ministers of the LEP for the time being;
- (b) *[insert]* Elected Trustees elected at the Annual Congregational Meeting; and
- (c) Co-opted Trustees appointed by the Trustees.<sup>7</sup>

22. The first Elected Trustees shall be elected at the meeting at which this Constitution is adopted.

23. Elected Trustees shall hold office from the end of the Annual Congregational Meeting at which they are elected until the end of the third such meeting after their appointment, but shall be eligible for re-election at that meeting.

24. No person may be elected as an Elected Trustee or appointed as a Co-opted Trustee unless he or she:

- (a) is a Member;
- (b) is aged 18 or above;<sup>8</sup>
- (c) is not disqualified from acting as a Trustee by virtue of section 69 of the Act (or any statutory re-enactment or modification of that provision); and
- (d) has indicated his or her willingness to serve as a Trustee.

25. Co-opted Trustees serve until the end of the next Annual Congregational Meeting following their appointment.

26. A Trustee shall cease to hold office if he or she:

- (a) is disqualified from acting as a Trustee by virtue of section 69 of the Act (or any statutory re-enactment or modification of that provision);
- (b) ceases to be a Member;

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<sup>6</sup> The specific quorum requirement should be determined in the particular circumstances of the LEP.

<sup>7</sup> Insert the circumstances in which trustees may be co-opted.

<sup>8</sup> May be reduced to 16 at the discretion of the LEP.

- (c) dies or becomes incapable by reason of mental disorder, illness or injury of managing and administering his or her own affairs;
- (d) resigns as trustee by notice to the Trustees (but only if at least two Trustees will remain in office when the notice of resignation takes effect); or
- (e) is absent without the permission of the Trustees from all their meetings held within a period of twelve consecutive months and the Trustees resolve that his or her office be vacated.

### **Proceedings of the Trustees**

27. The Trustees may regulate their proceedings as they think fit, subject to the provisions of this constitution.

28. The Trustees must hold at least two meetings in each calendar year.

29. At their first meeting after an Annual Congregational Meeting the Trustees shall elect the following officers from amongst their number:

- (a) a chair. The Minister of the LEP will normally be Chair.<sup>9</sup>
- (b) a secretary; and
- (c) a treasurer.

30. Any two Trustees may request a meeting of the Trustees and the secretary must convene a meeting of the Trustees if requested to do so by any two Trustees.

31. Questions arising at a meeting must be decided by a majority of votes.

32. The person who chairs the meeting shall have a casting vote only.

33. No decision may be made by a meeting of the Trustees unless a quorum is present at the time the decision is purported to be made.

34. The quorum shall be either:

- (a) two or the number nearest to one third of the total number of Trustees, whichever is the greater; or
- (b) such larger number as may be decided from time to time by the Trustees.

35. A Trustee shall not be counted in the quorum present when any decision is made about a matter upon which that Trustee is not entitled to vote.

36. If the number of Trustees is less than the number fixed as the quorum, the continuing Trustees or Trustee may act for the purpose of filling vacancies or of calling a Congregational Meeting but for no other purpose.

37. The minister or the person elected as the chair (as appropriate) shall chair meetings of the Trustees.

38. If the chair is unwilling to be present at two consecutive trustee meetings then the matter should be referred to the Participating Denominations as it reflects a serious situation.

39. The person appointed to chair meetings of the Trustees shall have the functions or powers conferred by this Constitution, or delegated to him or her in writing by the Trustees.

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<sup>9</sup> This will be the Minister recognised by each of the participating denominations at the time the LEP is set up. In situations where the participating denominations allow for someone other than a minister to chair the meeting, the chair need not be a minister.

40. The Trustees may delegate any of their powers or functions to a committee of two or more persons, all or a majority of whom shall be Trustees, subject to such conditions (if any) as they think fit. All acts and proceedings of any such committee must be reported promptly to the Trustees.

41. The Trustees must keep minutes of all:

- (a) appointments of officers, employees and Co-opted Trustees made by the Trustees;
- (b) proceedings at Congregational Meetings; and
- (c) meetings of the Trustees and committees of the Trustees, including:
  - (i) the names of the Trustees or committee members present at the meeting;
  - (ii) the decisions made at the meeting; and
  - (iii) where appropriate, the reasons for the decisions.

### **Accounting and reporting**

42. The Trustees must comply with their obligations under charity law with regard to:

- (a) the keeping of accounting records for the Charity;
- (b) the preparation of annual statements of account for the Charity including a report by the Trustees on its activities;
- (c) the transmission of the statements of account and the Trustees' report to the members of the Charity; and
- (d) the preparation of an Annual Return and its submission with the annual statements of account and the Trustees' report to OSCR.

### **Powers of Trustees**

43. In order to further the purpose of the Charity the Trustees may:

- (a) raise funds, provided that in doing so the Trustees must not undertake any substantial permanent trading activity and must comply with any relevant statutory regulations;
- (b) apply for and accept grants and provide security in respect of obligations under grant agreements;
- (c) buy, take on lease or in exchange, hire or otherwise acquire any property and maintain and equip it for use;
- (d) where the Charity owns property, sell, lease or otherwise dispose of all or any part of the property, subject to such consents as are required by law;
- (e) borrow money and charge the whole or any part of the property belonging to the Charity as security for repayment of the money borrowed, subject to such consents as are required by law;
- (f) co-operate with other charities, voluntary bodies and statutory authorities and exchange information and advice with them;
- (g) establish or support any charitable trusts, associations or institutions formed for any purpose connected with the purpose of the Charity;
- (h) acquire, or enter into any partnership or joint venture arrangement with any other charity formed for any purpose connected with the purpose of the Charity;
- (i) set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves;
- (j) obtain and pay for such goods and services as are necessary for carrying out the work of the Charity;
- (k) open and operate such bank and other accounts as the Trustees consider necessary and invest funds and delegate the management of funds in accordance with the provisions of the Act;
- (l) employ such staff as are considered appropriate for the proper conduct of the Charity's

- activities, and to make reasonable provision for the payment of pension and/or other benefits for members of staff, ex-members of staff and their dependants;
- (m) effect insurance of all kinds (which may include trustees'/officers' liability insurance); and
  - (n) do all such other lawful things as may be incidental or conducive for the achievement of the purposes of the Charity.

### **Application of funds**

44. The Trustees shall pay out of the income and property of the Charity all the proper costs and expenses of administering the Charity.

45. For the avoidance of doubt, none of the Charity's assets may be distributed or otherwise applied (on being wound up or at any other time) except to further its charitable purposes.

### **Trustee benefits**

46. No Trustee or any person connected with a Trustee may receive from the Charity any payment of money or other material benefit (whether direct or indirect) except by way of:

- (a) reasonable remuneration or stipend paid to any Trustee who is a minister of the LEP;
- (b) reimbursement of reasonable out of pocket expenses (including hotel and travel costs) actually incurred in the administration of the Charity;
- (c) interest at a reasonable rate on money lent to the Charity;
- (d) a reasonable rent or hiring fee for property let or hired to the Charity;
- (e) an indemnity in respect of any liabilities properly incurred in or about the administration of the Charity (including the costs of a successful defence to criminal proceedings);
- (f) benefits received by the Trustee as a Member where such benefits are no different in nature or extent from those received by other Members; and
- (g) payment for employment or services authorised under clause 49.

In all circumstances the provisions of the Act shall be complied with.

47. The Trustees may employ, or engage under a contract for services, such of their number or any person connected to a Trustee as they may determine provided that:

- (a) the procedure set out in clause 49 is followed;
- (b) the Trustees are satisfied that it is in the interests of the Charity to employ or engage under a contract for services (as the case may be) the Trustee or connected person concerned;
- (c) the Trustees are satisfied that the terms of employment or engagement are reasonable and will be subject to regular and objective review; and
- (d) at no time may a majority of Trustees benefit directly or indirectly from payments made under this clause.

48. Whenever a Trustee or a person connected to a Trustee has a personal interest in a matter to be discussed at a meeting of the Trustees or any committee, the Trustee or connected person concerned must:

- (a) declare an interest before discussion on the matter begins;
- (b) withdraw from the meeting for that item unless expressly invited by the chair to remain solely in order to provide information;
- (c) not be counted in the quorum during that part of the meeting; and
- (d) withdraw during the vote and have no vote on the matter.

49. For the purpose of clauses 46 to 48 a person is connected with a Trustee if considered to be "connected" in terms of the provisions of the Act.

### **Investment**

50. Funds which are not required for immediate use must be placed on deposit or invested.
51. Investments and other property of the Charity may be held:
- (a) in the names of the Trustees;
  - (b) in the name of a nominee (being a corporate body registered or having an established place of business in the United Kingdom) under the control of the Trustees or of a financial expert acting on their instructions; or
  - (c) in the name of a trust corporation as a holding trustee for the Charity which must be appointed (and may be removed) by deed executed by the Trustees.

### **Amendment of Constitution**

52. This Constitution (including the Schedule) may be amended at either an Annual or a Special Congregational Meeting provided that:
- (a) no amendment may be made to this clause that would have the effect of making the Charity cease to be a charity at law;
  - (b) clauses 2 may not be amended without the prior written consent of OSCR;
  - (c) members are given 21 days' notice and resolve by not less than two-thirds majority of the Members present and voting; and
  - (d) the resolution receives the approval of the Sponsoring Body and of the appropriate authority of each of the Participating Denominations.

53. A copy of any resolution amending this Constitution must be sent to OSCR as required by the Act.

### **Dissolution of Charity**

54. The Charity may be dissolved:
- (a) by a decision of the appropriate authorities of each of the Participating Denominations; or
  - (b) by the Members with the approval of the appropriate authority of each of the Participating Denominations, coordinated by the Sponsoring Body.
55. If the Participating Denominations or the Members resolve to dissolve the Charity the Trustees will remain in office as charity trustees and be responsible for winding up the affairs of the Charity in accordance with the provisions of this Constitution.

56. The Trustees must collect in all the assets of the Charity and must pay or make provision for all the liabilities of the Charity.

57. The Trustees must apply any remaining assets in a manner agreed by the Participating Denominations either:
- (a) directly for the purpose of the Charity in a manner approved by the Participating Denominations; or
  - (b) by transfer to the Participating Denominations equally or on some other equitable basis, to be used for charitable purposes only. If agreement cannot be reached by the Participating Denominations on the basis of division the matter shall be determined by an arbiter appointed by the Dean of the Faculty of Advocates whose findings shall be accepted as final; or
  - (c) in such other manner as OSCR may approve in writing in advance.

58. In no circumstances shall the net assets of the Charity be paid to or distributed among the members of the Charity.



59. The Trustees must notify OSCR promptly that the Charity has been dissolved. If the Trustees are obliged to send the Charity's accounts to OSCR for the accounting period which ended before its dissolution, they must send OSCR the Charity's final accounts.

## SCHEDULE

### The LEP

1. The Charity:
  - (a) gives effect to the local ecumenical partnership [*insert name....*] approved for the Area of Benefit by the Participating Churches;
  - (b) comprises the Participating Churches; and
  - (c) looks to the Sponsoring Body for support, encouragement and advice.

### The Area of Benefit

2. The Area of Benefit [to be determined by the participating denominations and when the Church of Scotland is involved shall comprise the Parish area as from time to time to be determined by the appropriate presbytery in conjunction with the other participating denominations].

### The Participating Churches

3. The Participating Denominations are:
  - (a) [*name*];
  - (b) [*name*]; and
  - (c) [*name*].
4. The Participating Churches (which have originated the LEP) are:
  - (a) [*name*];
  - (b) [*name*]; and
  - (c) [*name*].
5. The Appropriate Authority for each Participating Denomination is [to be completed in the context of the LEP in question.]

### Christian Initiation and Belonging

6. Baptism shall be administered according to the rite and/or practice of any of the Participating Denominations, or according to a rite approved by the Participating Denominations and shall be set, in normal circumstances, within an act of congregational worship. A register of baptisms shall be kept.
7. Those received into membership of the LEP by confirmation according to the practices of the Participating Denominations<sup>10</sup> shall become members of all the Participating Denominations, as well as members of the LEP.
8. Those received into membership of the LEP by transfer and extension of membership in consequence become members of all the Participating Denominations which have received them, as well as members of the LEP.<sup>11</sup>

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<sup>10</sup> This section will need to be considered for the LEP in question in the light of the practice of the each Participating Denomination, including *eg.* possibility of admission to Membership by resolution of Kirk Session.

<sup>11</sup> Membership discipline should be agreed in the context of the particular LEP in question in the light of the procedures of the Participating Denominations.

## **Worship**

9. The LEP shall respect the faith and practice of each of the Participating Denominations. Worship shall safeguard and present the doctrines, practices, traditions and developing traditions of each of the Participating Denominations and be conducted in accordance with denominational practices. A balanced and varied pattern of worship shall be aimed for in order to maximise the riches of each tradition and to enable the congregation to explore and express its ecumenical life and aspiration, while at the same time ensuring that worship is accessible and sustaining for all its members. [Ordained priests, ministers or other duly authorised persons shall preside at the Sacrament of Communion as permitted by the rules of the relevant Participating Denomination].

10. All those recognised as communicants by the Participating Denominations may receive the sacrament.

## **Ministry**

11. Authorised ministry within the LEP shall be provided by ministers (whether clergy or lay) duly appointed by the Participating Denominations.<sup>12</sup>

12. [There shall normally be a practice of alternating ministry between the Participating Denominations.] [*Where appropriate, state denomination(s) of ministers.*]

13. Newly appointed ministers shall be inducted/welcomed at a service at which they, other members of the ministry team, the LEP and representatives of the Sponsoring Body reaffirm the Ecumenical Vision Statement.

14. All ministers serving the LEP or be offered appropriate status as is permissible within all the Participating Denominations.<sup>13</sup>

15. Remuneration of Ministers shall be in accordance with the practices of his or her appointing Participating Denomination.

## **Relationship with the Participating Denominations<sup>14</sup>**

16. The LEP shall maintain a proper relationship to the appropriate local and regional bodies of the Participating Denominations fulfilling necessary constitutional requirements. These bodies are [here state the appropriate denominational bodies.]

17. To that end, meetings of the members of the LEP affiliated to a particular Participating Denomination (as opposed to meetings of the members of the LEP) may be held in order to meet the constitutional requirements of the Participating Denomination concerned.

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<sup>129</sup> The procedures of the relevant Participating Denominations shall be followed in the appointment/call of ministers. Recognising, however, the importance of continuity, the LEP expects that those responsible for the appointment/call of ministers shall select persons who will respect and develop the ecumenical character of the LEP. [To that end, when it is expected that a minister or member of the ministry team serving the LEP may leave, or before any major changes in the responsibility of the minister presently in post are considered, or if additions to the ministry team are being contemplated, the agreed procedure of the Sponsoring Body shall be followed.]

<sup>13</sup> This application of this section should be explored and finalised in the context of the LEP in question.

<sup>14</sup> The Trustees shall be the equivalent of:

- a) [the Elders' Meeting in the case of the United Reformed Church];
- b) [the Kirk Session operating in terms of the Unitary Constitution thereof in the case of the Church of Scotland];
- c) [the Deacons' Meeting in the case of a Baptist Church]; [and]
- d) [the Methodist Church Council (according to Standing Order 611 of the Methodist Church)].

This section would require to be explored and finalised in the context of the LEP in question.

**Buildings**

18. The premises of the LEP comprise [*insert description of the premises*] and in so far as are not owned by the Charity are owned as indicated:

**Ongoing development**

19. Other churches in or near the Parish may seek participation in the LEP at any time, subject to the agreement of the appropriate authorities of the Participating Denominations and the co-ordination of the Sponsoring Body.

20. The LEP looks to the Sponsoring Body to review its work and witness every five years, or sooner, with reference to its purpose set out in the Ecumenical Vision Statement<sup>15</sup> annexed to this Constitution.

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<sup>15</sup> Alter as necessary for the LEP in question.



**APPEALS ACT (ACT I 2014) (superseding Interim Act II 2013) (AS AMENDED BY ACT VII 2015, ACT XII 2017, ACT III 2018, ACTS I AND VIII 2019, ACT VII 2020, ACT VIII 2022 AND ACT VIII 2023)**

*Edinburgh, 17 May 2014, Session I*

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

**PART 1: GENERAL**

**1. Definitions & Interpretation**

In this Act:

“appeal” includes “dissent and complaint” and a petition as referred to in section 4(2)(iii) of this Act, unless otherwise provided, and “Appellant” includes “complainer”;

“Appeals Committee” means the committee established from time to time from the members of the Commission of Assembly in accordance with Part 2 of this Act;

“Clerks of Assembly” means the Principal Clerk and the Depute Clerk;

“Commission” means the Appeals Committee of the Commission of Assembly or the Judicial Commission, as appropriate in the context;

“Commission of Assembly” means the Commission of Assembly which was established in terms of the Commission of Assembly Act (Act VI 1997);

“Court” means a Presbytery or the Discipline Tribunal;

“Discipline Tribunal” means a Discipline Tribunal constituted under the provisions of the Discipline Act (Act I 2019).

“Judicial Commission” means the Judicial Commission which is re-established in terms of this Act;

“Jurisdiction Committee” means a committee of three persons consisting of (i) a Convener or Vice-Convener of the Appeals Committee of the Commission of Assembly, (ii) a Convener or Vice-Convener of the Judicial Commission, and (iii) the Procurator;

“Personal Case” means a case which involves the consideration of allegations against an individual which, if established, could adversely affect that individual's holding of an office in the Church or otherwise lower him or her in the estimation of other members of the Church;

“Parties” means the Appellant and the Respondent (as later defined) and “Party” means either one of them;

“Schedule” means the schedule of 2 parts attached to this Act.

**2. Right to appeal from decisions**

(1) As from the date of this Act, and subject to the exclusions and qualifications in sections 2(3) and 2(4) below, a person with a legitimate interest who is aggrieved by a decision of a Court (“the Appellant”) may within fourteen days of the decision intimate an appeal against that decision.

(2) Such an appeal shall be intimated in accordance with the Rules of Procedure set out in Schedule 2 to this Act.

(3) Such an appeal may be taken only upon one or more of the following legal grounds: (a) an error in Church law; (b) breach of the principles of natural justice or material irregularity of process; (c) decision influenced by incorrect material fact; and (d) the severity of any sanction imposed.

(4) The right of appeal conferred in section 2(1) does not apply where the Acts and Regulations, or a decision, of the General Assembly specifically provide another appeal procedure and in particular this Act does not apply to appeals delegated to the Ministries Appeal Panel in accordance with Act VI 2007, to the Mission Plan Review Group in terms of Act VIII 2021, to the Safeguarding Appeal Panel in terms of Act XVI 2018 or to the Personnel Appeal Group in terms of decisions of the General Assembly.

(5) The Court against whose decision an appeal is being taken under this Act shall have power, on its own initiative or on the application of an interested person, to regulate matters relating to the decision, including giving interim effect to the decision, pending the determination of the appeal.

### **3. Establishment of the Appeals Committee of the Commission of Assembly and the Judicial Commission**

(1) The Appeals Committee of the Commission of Assembly is hereby established and the Judicial Commission is hereby re-established and both are authorised, to act for and on behalf of the General Assembly in the hearing of certain appeals, and adjudicating finally on such appeals, all as specified in this Act.

(2) For this purpose the General Assembly delegate to the said Commissions all powers necessary to act in such cases as if the General Assembly themselves were acting, including *inter alia* power, where necessary, to require the attendance of witnesses, to examine witnesses on oath or affirmation, and to call for the production of all documents and productions connected with or relevant to the appeal.

(3) It is declared that this delegation of all powers to act and to adjudicate finally is in accordance with the Articles Declaratory of the Constitution of the Church of Scotland in Matters Spiritual, as interpreted by the Church in this Act.

(4) Nothing in this Act shall affect the ongoing establishment of the Commission of Assembly in terms of Act VI 1997 and in particular the right of the Commission of Assembly to exercise its powers in terms of section 5(1) of that Act, provided always that in relation to cases and appeals, the whole provisions of this Act, which have the effect of constituting an Appeals Committee of the Commission of Assembly to hear such cases and appeals, shall prevail.

### **4. Jurisdiction of the Appeals Committee of the Commission of Assembly and the Judicial Commission**

(1) As from the date of this Act, sittings of the Appeals Committee of the Commission of Assembly and of the Judicial Commission shall be arranged to hear cases as set out in this section.

(2) The Appeals Committee of the Commission of Assembly shall hear the following cases:

(i) all appeals in terms of section 2(1), apart from those delegated to the Judicial Commission in accordance with section 4(3) below;

(ii) *Deleted by Act VIII 2022;*

(iii) all petitions which seek review of judgements of Presbyteries on the grounds that the Petitioners could not have come by appeal or have been obstructed in so doing by the Presbytery concerned, apart from those delegated to the Judicial Commission in accordance with section 4(3) below; and

(iv) *Deleted by Act VIII 2022.*

For the avoidance of any doubt, the Appeals Committee of the Commission of Assembly shall not hear any appeal in a Personal Case.

(3) The Judicial Commission shall hear the following cases:

- (i) Appeals under the Discipline Act (Act I 2019), being appeals against the decisions of Discipline Tribunals in discipline cases, except in matters of doctrine;
- (ii) Appeals in all cases arising under the Congregations in an Unsatisfactory State Act (Act I 1988); and
- (iii) Appeals in Personal Cases.

(4) If there is (i) any uncertainty or dispute as to which Commission shall hear a case or appeal, or (ii) any dispute as to whether a case or appeal to be heard before the Commission of Assembly is one which should be referred to its Appeals Committee or to the full Commission of Assembly, the Principal Clerk shall refer the matter to the Jurisdiction Committee and that Committee shall decide, in alternative (i), by which Commission the case or appeal shall be heard, and in alternative (ii), whether the case or appeal should be referred to the Appeals Committee or to the full Commission of Assembly, its decision in all such matters being final.

(5) Save for the provisions of this section, nothing in this Act affects the terms of the Ministries Appeal Panel Act (Act VI, 2007).

(6) All cases in which an appeal was intimated to and received by the Principal Clerk prior to the date of this Act coming into force shall continue to be dealt with in accordance with the terms of the Commission of Assembly Act (Act VI 1997) or the Judicial Commission Act (Act II 1988), as appropriate.

(7) Decisions of the Appeals Committee of the Commission of Assembly and of the Judicial Commission shall be final and there shall be no appeal from a decision of either the Appeals Committee of the Commission of Assembly or the Judicial Commission.

## **5. Reference to General Assembly**

It is declared that the General Assembly themselves shall not hear or dispose of any appeals save for appeals in matters of doctrine as referred to in section 4(3)(i) nor shall the decisions of the Appeals Committee of the Commission of Assembly or the Judicial Commission be subject to review by the General Assembly; provided that any case or appeal in which, in the opinion of the relevant Commission, an important issue of principle is at stake may be referred by that Commission to the General Assembly.

## **6. Rules of Procedure**

All appeals intimated under this Act shall follow the rules of procedure set out in Schedule 2.

## **PART 2: THE COMMISSION OF ASSEMBLY AND THE APPEALS COMMITTEE OF THE COMMISSION OF ASSEMBLY**

### **7. Appointment of Commissioners for the Commission of Assembly**

(1) At their closing session each year, the General Assembly shall appoint Commissioners for the Commission of Assembly comprising the following persons:

(i) one tenth of the ministers and elders commissioned by Presbyteries to the General Assembly in that year, such Commissioners to be designated by the appointing Presbyteries in accordance with the rules set out in Schedule 1 to this Act; and

(ii) one in ten or part of ten of the members of the Diaconate commissioned by Presbyteries to the General Assembly in that year, such members to be selected at random by the Clerks of Assembly.

(2) From the Commissioners appointed to the Commission of Assembly there shall be selected the members to serve on the Appeals Committee of the Commission of Assembly, in terms of section 8 below.

(3) Act VI 1997 shall from the date of this Act be amended so that the Commissioners appointed to the Commission of Assembly shall be appointed in accordance with the provisions of this section 7 and Schedule 1 to this Act.

#### **8. Constitution of the Appeals Committee of the Commission of Assembly**

(1) Throughout the year following each General Assembly, in order that cases or appeals falling within its jurisdiction may be heard, an Appeals Committee of the Commission of Assembly shall be constituted as required. Whenever a sitting of the Appeals Committee of the Commission of Assembly is required, the Clerks of Assembly shall select the following persons from the Commissioners appointed in accordance with section 7, to be members of that Appeals Committee:

- (i) Subject to the provisions of section 23(1), ten ministers, ten elders and one deacon, all selected at random from the Commissioners appointed to the Commission of Assembly; and
- (ii) A Convener and a Vice-Convener, from those appointed under section 9 below.

(2) In addition, the following members *ex officio*s of the General Assembly in that year, shall hold the same offices in the Appeals Committee of the Commission of Assembly as they did in the General Assembly: the Clerks of Assembly, the Procurator and the Law Agent.

#### **9. Convener and Vice-Convener of the Appeals Committee of the Commission of Assembly**

(1) The General Assembly, on the nomination of the Nomination Committee, and in accordance with the Standing Orders of the General Assembly, shall appoint up to six persons to be Conveners and Vice-Conveners of the Appeals Committee of the Commission of Assembly, all of whom shall be qualified to practise as lawyers or shall be persons experienced in the law and practice of the Church.

(2) Subject to section 9(3) below, each sitting of the Appeals Committee of the Commission of Assembly shall be moderated by either a Convener or a Vice-Convener so appointed.

(3) In the event that (i) none of the Conveners nor Vice-Conveners is able to attend a sitting of the Appeals Committee of the Commission of Assembly, or (ii) all of the Conveners and Vice-Conveners disqualify themselves from the hearing of a particular appeal, the Appeals Committee of the Commission of Assembly may choose their own convener from their own number to moderate that sitting (or the hearing of a particular appeal within that sitting, as the case may be), provided always that the same person shall continue to act as convener throughout the hearing of any given appeal. Any such person chosen to act as convener shall either be a person qualified to practise as a lawyer or shall be a person experienced in the law and practice of the Church.

(4) The person who moderates a sitting (or hearing) of the Appeals Committee of the Commission of Assembly shall have a casting vote.

#### **10. Quorum**

With the exception of decisions that one or more Grounds of Appeal is incompetent or irrelevant, which decisions may be taken by the Convener and Vice Convener as provided for in Rule 5.8 of Schedule 2, the quorum of the Appeals Committee of the Commission of Assembly shall be eleven persons.

#### **11. Sittings**



Sittings of the Appeals Committee of the Commission of Assembly shall be arranged as follows:

- (a) Sittings shall take place as required, during the months of June, August, October, December, February and April.
- (b) Sittings shall be called by the Principal Clerk.

#### **12. Report to the General Assembly**

The Minutes of all sittings of the Appeals Committee of the Commission of Assembly shall be submitted to the General Assembly in the Volume of Reports, or in the Order of Proceedings, or in the Daily Papers, and laid on the table, without discussion, provided that the General Assembly may consider and deal with any allegation that the Appeals Committee of the Commission of Assembly has acted in excess of the powers conferred by this Act.

#### **13. Relation to Legislation**

- (1) The Appeals Committee of the Commission of Assembly 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.
- (2) The Appeals Committee of the Commission of Assembly shall not have power to review any decision of the General Assembly, except for a decision made under the Appraisal and Adjustment Act (Act VII 2003) where the Appeals Committee of the Commission of Assembly is satisfied that the relevant circumstances have significantly changed.
- (3) The Appeals Committee of the Commission of Assembly shall be accountable to the General Assembly, which may quash any decision made by the Appeals Committee of the Commission of Assembly which exceeds the powers conferred by this Act.

### **PART 3: THE JUDICIAL COMMISSION**

#### **14. Appointment of members of the Judicial Panel**

- (1) There shall be a pool of persons, known as the Judicial Panel, from which there shall be drawn the persons to serve on the Discipline Tribunal and the Judicial Commission. Members of the pool may also serve as Reviewers under the Discipline Act (Act I 2019).
- (2) The Judicial Panel shall comprise thirty people being ministers, elders, deacons and Church members nominated by the Nomination Committee and appointed by the General Assembly. All members of the Judicial Panel shall be qualified to practise as lawyers or shall be experienced in the law and practice of the Church.
- (3) The members of the Judicial Panel shall initially be appointed for a term of four years, and shall be eligible for reappointment for further terms of four years.
- (4) In the event of a member of the Judicial Panel approaching the end of their current term of appointment and not wishing to be reappointed but being then engaged in the hearing of a case or an appeal, he or she shall continue in office, but only until the Discipline Tribunal or the Judicial Commission has recorded its decision in the case or appeal in question, as the case may be.
- (5) The Procurator of the Church shall not be eligible for inclusion in the Judicial Panel but may be requested to attend a sitting of the Judicial Commission if it is so determined at the Appeal Management Hearing referred to in Schedule 2.

#### **15. Constitution of the Judicial Commission**

Whenever a sitting of the Judicial Commission is required, the Clerks of Assembly shall select the following persons:

- (i) Subject to the provisions of section 23(1) three persons, including at least one minister or deacon and one elder, all selected at random from the Judicial Panel; and
- (ii) A Convener and a Vice-Convener, from those appointed under section 16 below.

No person who has been selected for the Discipline Tribunal for a particular matter shall thereafter be selected for the Judicial Commission for the same matter.

#### **16. Conveners & Vice-Conveners of the Discipline Tribunal and the Judicial Commission**

(1) The General Assembly, on the nomination of the Nomination Committee, and in accordance with the Standing Orders of the General Assembly, shall appoint up to twelve persons to be Conveners and/or Vice-Conveners of the Discipline Tribunal and the Judicial Commission, all of whom shall be qualified to practise as lawyers or shall be persons experienced in the law and practice of the Church.

(2) Each sitting of the Discipline Tribunal shall be chaired by a Convener so appointed, or by a Vice-Convener so appointed when one is required according to the Discipline Act (Act I 2019).

(3) Each sitting of the Judicial Commission shall be chaired by either a Convener or a Vice-Convener so appointed.

(4) The person who chairs a sitting (or hearing) of the Discipline Tribunal or Judicial Commission shall have a casting vote.

#### **17. Quorum**

With the exception of decisions that one or more Grounds of Appeal is incompetent or irrelevant, which decisions may be taken by the Convener and Vice Convener as provided for in Rule 5.8 of Schedule 2, the quorum of the Judicial Commission shall be three persons.

#### **18. Sittings**

Sittings of the Judicial Commission shall be called by the Principal Clerk.

#### **19. Report to the General Assembly**

A Minute of proceedings of the Judicial Commission shall be incorporated in a written report to the General Assembly, but shall not be subject to review by the General Assembly.

#### **20. Relation to Legislation**

The Judicial Commission 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.

### **PART 4: PROVISIONS APPLICABLE TO BOTH COMMISSIONS**

#### **21. Clerks**

(1) The Clerks of Assembly shall act as Clerks to the Commissions, but the duties may be carried out by one of them.

(2) If neither of them is present at a sitting, the Commission shall appoint a substitute, whether or not a member of that sitting of the Commission, to act as Clerk of the Commission during that sitting, and the oath *de fideli* shall be administered to him or her and recorded.

## **22. Priority of meetings**

(1) When a sitting of a Commission coincides with an ordinary meeting of a Presbytery or Kirk Session of which any member attending a Commission is a member, such Presbytery or Kirk Session has permission to meet, but the priority for such member is to attend the Commission in question, and the Presbytery or Kirk Session shall not in the absence of such member transact any business which might be prejudicial to his or her interests.

(2) Decisions of the Commissions shall be complied with as if they were decisions of the General Assembly.

## **23. Other provisions as to membership of Commissions**

(1) No member of any Court whose decision is under appeal, nor any person who has taken part in the cause at any stage, nor any person with an interest in the outcome of the cause, shall act as a member of a Commission when an appeal in such a cause is being heard.

(2) No member of a Commission who has not been present during the whole proceedings in the appeal shall vote or take any part in the decision of the Commission in question or be consulted for the purposes of production of written reasons for the decision.

## **PART 5: GENERAL**

### **24. Intimation of decisions**

Save where a decision is of an administrative non-controversial nature and was made without a vote requiring to be taken, intimation of all decisions of courts of the Church in relation to which there is a right to appeal shall be made to all parties having a legitimate interest with regard to the decision by sending to them forthwith (1) a copy of the decision (2) an extract minute in respect of the decision and (3) a copy of the section or sections of the relevant legislation in terms of which an appeal may be intimated.

### **25. Amendments**

The Discipline of Ministry Act (Act III 2001) is amended as follows:

*Delete sections 19 (1) to (6) and substitute the following as section 19(1); also consequentially renumber section 19 (7) as section 19 (2):*

“If either the Special Committee of Presbytery or the Respondent is dissatisfied with any decision of the Presbyterial Commission, they may appeal to the Judicial Commission in terms of the Appeals Act 2013. No right of appeal or dissent-and-complaint shall be allowed in respect of any act or decision done or taken in terms of this Act, otherwise than in accordance with the provisions of this Act or the Appeals Act 2013.”

### **26. Repeal and Amendment**

(1) The Judicial Commission Act (Act II 1988) is hereby repealed but where an appeal in a case to be heard by the Judicial Commission was intimated to and received by the Principal Clerk before the date of this Act, such proceedings shall continue until final disposal in accordance with the law in force immediately before the date of this Act.

- (2) The Commission of Assembly Act (Act VI 1997) is from the date of this Act to be interpreted so as to apply only to matters brought to it not comprising cases or appeals, all cases and appeals falling within its jurisdiction being from the date of this Act heard by the Appeals Committee of the Commission of Assembly and governed by the terms of this Act. Where an appeal in a case to be heard by the Appeals Committee of the Commission of Assembly was intimated to and received by the Principal Clerk before the date of this Act, such proceedings shall continue until final disposal in accordance with the law in force immediately before the date of this Act.

## **SCHEDULE 1**

### **Rules for Presbyteries appointing Commissioners to the Commission of Assembly**

1. To ascertain the number of appointees for each Presbytery, the number of ministers and elders commissioned to the General Assembly shall be divided by ten and taken up or down to the nearest whole number, provided that every Presbytery shall appoint at least one minister and one elder.
2. When the formula produces an even number, the Presbytery shall appoint ministers and elders in equal numbers.
3. When the formula produces an odd number:
  - (a) in odd years (i.e. 2013, 2015 etc) Presbyteries with odd numbers (ie Presbyteries 1, 3, etc) shall appoint a number of ministers exceeding the number of elders by one and Presbyteries with even numbers shall appoint a number of elders exceeding the number of ministers by one; and
  - (b) in even years (i.e. 2014, 2016 etc) Presbyteries with even numbers shall appoint a number of ministers exceeding the number of elders by one, and Presbyteries with odd numbers shall appoint a number of elders exceeding the number of ministers by one.

## **SCHEDULE 2**

### **Rules of Procedure**

#### **1. Intimation of Appeal**

- 1.1 The Appellant shall intimate the appeal to both the clerk of the Court against whose decision the appeal is being taken and to the Principal Clerk.
- 1.2 The Principal Clerk shall forthwith notify (i) the other person or persons involved in the appeal ("the Respondent") of the fact that an appeal has been intimated and (ii) both the Appellant and the Respondent of the date by which Grounds of Appeal (as specified in Rule 2 below) must be lodged.

#### **2. Lodging of Grounds of Appeal by Appellant**

- 2.1 Within four weeks of the date upon which the appeal was intimated in terms of Rule 1 above, the Appellant shall lodge Grounds of Appeal with the Principal Clerk and intimate a copy of those Grounds to (i) the Clerk of the Court against whose decision the appeal is being taken, and (ii) the Respondent in the Appeal.
- 2.2 The Grounds of Appeal shall consist of brief specific numbered propositions stating the grounds on which it is argued that the appeal should be allowed, and identifying for each ground the relevant subsection of section 2(3) of this Act.

#### **3. Lodging of Answers by Respondent**

- 3.1 Within four weeks of being requested to do so by the Principal Clerk, the Respondent shall lodge Answers to the Grounds of Appeal with the Principal Clerk and intimate a copy of those Answers to (i) the Clerk of the Court against whose decision the appeal is being taken, and (ii) the Appellant in the Appeal.
- 3.2 The Answers shall consist of brief responses to the Appellant's numbered Grounds of Appeal. The basis of any challenge to the competency or relevancy of any of the Grounds of Appeal shall be explained in the Answers.
- 3.3 If the Respondent does not lodge Answers, the appeal shall not be dismissed but shall continue to an Appeal Management Hearing.

#### **4. Documents from previous proceedings**

- 4.1 The Clerk of the Court against whose decision the appeal is being taken shall transmit to the Principal Clerk all documents relative to the proceedings being appealed against as shall be required for the hearing of the appeal.

#### **5. Appeal Management Hearings**

- 5.1 In any appeal, once the Appellant's Grounds of Appeal have been lodged and the Respondent has been given an opportunity to lodge Answers, and save where the Convener and the Vice-Convener with the agreement of the Parties decide to dispense with an Appeal Management Hearing, the Principal Clerk shall fix a date for a first Appeal Management Hearing.

- 5.2 The date of the first Appeal Management Hearing shall be at least 28 days after the date upon which the Respondent's Answers are lodged (or, where none are lodged, at least 14 days after the date by which the Respondent was requested to lodge Answers). The Principal Clerk shall intimate the date of the first Appeal Management Hearing to both Parties, giving at least 14 days' prior written notice of the date.
- 5.3 More than one Appeal Management Hearing may be held, as determined by the Convener and Vice-Convener.
- 5.4 The purpose of the Appeal Management Hearing(s) shall be to determine whether the Parties are ready to proceed to a hearing of the appeal, and to consider other legal, procedural and practical matters in respect of the appeal.
- 5.5 The Appeal Management Hearing(s) shall be conducted by the Convener and the Vice-Convener of the Commission which is to hear the appeal. The Clerks of Assembly shall act as clerks to the Appeal Management Hearing(s).
- 5.6 The following matters shall be considered at Appeal Management Hearing(s):
- a) any issue(s) of competency and/or relevancy of the Grounds of Appeal;
  - b) the Parties' state of preparation for the Appeal Hearing;
  - c) setting of a date and duration for the Appeal Hearing;
  - d) productions required, with the presumption that the productions at the Appeal Hearing shall be those which were before the Court against whose decision the appeal is being taken, unless a Party is allowed to lodge additional material on cause shown;
  - e) whether the Parties may agree certain productions and evidence, and whether a Joint Minute agreeing any facts may be lodged;
  - f) whether the timetable for the lodging of the Written Arguments (as defined below) is apt, or requires to be varied in any way, for example to provide that Parties will exchange drafts of their Written Arguments by a certain date;
  - g) whether or not the Appeal Hearing should be held in private;
  - h) whether or not a factual investigation of any points is necessary or appropriate, in which case a committee or reporter may be appointed by the Principal Clerk for this purpose;
  - i) whether there should be evidence led at the Appeal Hearing, the presumption being that this will not occur;
  - j) whether the Procurator should attend the Appeal Hearing;
  - k) whether any Party has any objection to any person in the pool for the Commission sitting when the appeal is being heard, which objection may only be made on cause shown and, if sustained, shall disqualify the person or persons objected to from sitting in that appeal; and
  - l) any other matter concerning the Appeal Hearing, the decision of the Convener and the Vice-Convener as to what should be considered being final.
- 5.7 The Parties or their representatives shall wherever possible attend an Appeal Management Hearing in person, provided that if the Convener and the Vice-Convener so agree, an Appeal Management Hearing may take place by video conference or other appropriate medium.

- 5.8 At any Appeal Management Hearing the Convener and the Vice-Convener may determine that one or more Grounds of Appeal is/are irrelevant and/or incompetent and, where no competent and relevant Grounds of Appeal have been identified, may dismiss the appeal on that basis. The Convener and Vice-Convener shall also have power at an Appeal Management Hearing to make any order or determination relating to the appeal which is just and reasonable. All orders or determinations made under this Rule 5.8 shall be final.

## **6. Date of Appeal Hearing**

- 6.1 If the date of the Appeal Hearing has not been fixed at an Appeal Management Hearing, the Principal Clerk shall give to the Parties at least 42 days' notice (or such shorter period as may be agreed by the Parties) of the date fixed for the Appeal Hearing.
- 6.2 The Principal Clerk shall also give notice of the date fixed for the Appeal Hearing to the members of the Commission for that Appeal Hearing, along with copies of all appropriate papers.

## **7. Written Arguments prior to Appeal Hearing**

- 7.1 At least 14 days prior to the date of the Appeal Hearing, both the Appellant and the Respondent(s) shall lodge with the Principal Clerk and intimate to the other Party a document comprising their written argument for the purposes of the appeal ("Written Argument").
- 7.2 The Written Argument submitted by the Appellant is to be an expansion of the Grounds of Appeal already submitted and is to set out for each ground of appeal, a succinct and articulate statement of the facts founded upon and the propositions of law being advanced.
- 7.3 The Written Argument submitted by the Respondent shall set out the basis upon which the Respondent is challenging the appeal. It shall set out, in respect of the challenge to each ground of appeal, a succinct and articulate statement of the facts founded upon and the propositions of law being advanced.
- 7.4 Each Written Argument shall also (i) specify what disposal of the matter is sought by that Party, and (ii) be signed by or on behalf of the Party submitting it.
- 7.5 Each Written Argument when lodged shall be accompanied by (i) all documents referred to or founded upon in the Written Argument, (ii) subject always to any order or determination made at the Appeal Management Hearing in terms of Rule 5.6 c) above, all productions, or copies thereof, referred to or founded upon in the Written Argument, and (iii) all legal authorities, or copies thereof, listed in the Written Argument.
- 7.6 Each Party shall, when lodging its Written Argument and accompanying papers, send copies to the other Party.



- 7.7 No new grounds of appeal may be raised either in Written Argument or at the Appeal Hearing itself, save that on application to the Convener and the Vice-Convener at the Appeal Hearing itself, the Convener and the Vice-Convener shall have sole discretion to allow consideration of any additional grounds of appeal on cause shown.

## **8. Appeal Hearings**

- 8.1 At the Appeal Hearing the following shall apply:

- a. Each Written Argument and supporting documents shall constitute the principal submissions of each Party;
- b. Unless it otherwise directs, the Commission will expect each Party to rely upon its Written Argument without reading it over to the Commission;
- c. Each Party may, subject to control of the Convener, Vice-Convener or acting convener of the Commission, make comment supplementary to the Written Argument;
- d. Each Party may respond to any Written Argument lodged by the other Party; and
- e. Each Party shall answer any points raised by any member of the Commission.

- 8.2 The rules of civil evidence in Scots law shall apply and the standard of proof in any examination of evidence shall be the balance of probabilities. Any witnesses who are called shall be required by the Convener, Vice-Convener or acting convener to take the oath or affirm before giving evidence.

## **9. Timing at Appeal Hearings**

- 9.1 The Appellant and the Respondent have a duty to co-operate with each other and with the Commission to ensure the completion of the Appeal Hearing within the time allocated by the Commission.
- 9.2 The Commission may, at any point during the Appeal Hearing, set a timetable for completion by a Party of any submissions permitted in terms of Rule 8.1 above.

## **10. New information at Appeal Hearings**

- 10.1 On cause shown, the Commission may permit either Party to introduce at the Appeal Hearing new information that has come to light in the period since their Written Argument was lodged.
- 10.2 Where the Commission permits the introduction of new information, it may at its discretion permit the lodging of new documents in support of the new information.
- 10.3 A Party who wishes to introduce new information and lodge additional documents shall send a copy of the information and documents to the Principal Clerk and to the other Party as soon as the documents and information come into that Party's possession.
- 10.4 A Party who has sent new information and documents to the Principal Clerk shall apply at the Appeal Hearing to allow it to be introduced or lodged, as the case may be.

## **11. Miscellaneous provisions as to running of Appeal Hearings**

- 11.1 An Appeal Hearing shall proceed from day to day until concluded, provided always that it shall be in the power of the Commission, if in its opinion the justice of the case demands it, or for any other reason which may appear to be sufficient, to adjourn the Appeal Hearing either on its own motion, or at the request of either Party on cause shown, and subject to such conditions as it may think proper to impose.
- 11.2 The Commission may decide at any stage of the Appeal Hearing that all or part of the proceedings shall be taken in private, provided that if a decision on this matter was taken at the Appeal Management Hearing, a different decision shall be reached at the Appeal Hearing only on cause shown.
- 11.3 In appeals where it was deemed necessary at the Appeal Management Hearing to hear evidence, witnesses shall be cited in ordinary form by the Clerk of the Commission to appear at the Appeal Hearing. Such witnesses shall be examined on oath or affirmation, as the Commission shall direct, by the Party calling them. Thereafter the witness may be cross-examined by the other Party and the Party calling the witness may thereafter re-examine the witness on any new matter brought out in cross-examination. On the conclusion of the Parties' examination of a witness, any member of the Commission may put questions to the witness on his or her own behalf, or on the suggestion of either Party.
- 11.4 Where an appeal is against a Presbytery's decision in terms of section 6(1) or section 14(1) of the Appraisal and Adjustment Act (Act VII 2003), the Principal Clerk shall intimate the date of the Appeal Hearing to the Assembly's Committee. The Assembly's Committee shall attend the Appeal Hearing as an interested party and may speak, if so desired.

## **12. Recording of Appeal Hearings**

- 12.1 All Appeal Hearings (including for the avoidance of any doubt, the evidence of any witnesses called to appear) shall be audio recorded and the recordings retained by the Clerks of Assembly for at least ten years.

## **13. Decision of the Commission**

- 13.1 Upon completion of all submissions by both Appellant and Respondent, and once all supplementary comment has been made, responses given, answers stated, and evidence led (if any), the Commission shall retire to consider its decision.
- 13.2 Upon conclusion of the Commission's deliberations, the decision of the Commission shall be committed to writing, read over to the Commission, and signed by the Convener, Vice-Convener or acting convener. The Convener, Vice-Convener or acting convener shall then read over the decision of the Commission in the presence of both Parties. Also in the presence of the Parties, the Convener, Vice-Convener or acting convener shall give a brief oral summary of the main reasons for that decision and shall confirm whether the decision was taken unanimously or by majority vote.
- 13.3 Any decision of the Commission may include instructions issued to a Court or to the Parties.

13.4 Within fourteen days after the end of an Appeal Hearing, the Convener, Vice-Convener or acting convener of the Commission, in consultation through the Principal Clerk with all Commissioners present throughout the Appeal Hearing, shall produce written reasons for the decision of the Commission. The Principal Clerk shall within twenty one days of the end of the Appeal Hearing send a copy of the written reasons to the Parties.

13.5 The written reasons for the decision of the Commission shall be held by the Principal Clerk who upon request shall make them available for public inspection.

#### **14. No further appeal**

14.1 The decision of the Commission and any instructions issued by the Commission shall be final and binding on the Parties and no further appeal shall be available.

#### **15. Dispensing etc powers of the Commission**

15.1 On application to it during an Appeal Hearing, the Commission may relieve a Party from the consequences of failure to comply with the provisions of this Act shown to be due to mistake, oversight or some other excusable cause and that on such conditions as the Commission thinks fit.

15.2 On application to it during an Appeal Hearing, the Commission may also allow a Party to amend its grounds of appeal or Written Argument where the need for amendment is shown to be due to mistake, oversight or some other excusable cause and that on such conditions as the Commission thinks fit.

15.3 At any time during the appeal process, the Commission may determine, either on its own motion or following motion of a Party, that it would be in the interests of the justice for the appeal proceedings to be sisted, whether to allow for mediation or otherwise.

#### **16. Expenses**

16.1 Subject to the provisions of the Discipline of Ministry Act (Act III 2001), the Discipline Act (Act I 2019) and the Legal Aid in Disciplinary Proceedings Regulations (Regs I 2018) as to expenses, the Parties at their own cost may employ Counsel or Solicitors to act on their behalf, or may conduct their case themselves or delegate one of their number to do so.

16.2 A Presbytery whose decision is appealed against shall be entitled, if it so desires, to have the assistance of an Assessor or Assessors appointed by the Legal Questions Committee.

16.3 The expenses of the Commission members and of the proceedings of the Commission shall be defrayed out of the General Purposes Fund of the Church unless and until the General Assembly shall determine otherwise.

#### **17. Intimations/sending of information**

17.1 Where any document or other information requires to be intimated or sent to any person, that intimation or sending may take place by email.



**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**

<b>Act</b>	<b>No &amp; year</b>
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

**I MINISTERS AND DEACONS IN SAME SEX CIVIL PARTNERSHIPS AND SAME SEX MARRIAGES ACT (ACT I 2015) (AS AMENDED BY ACTS I, IX AND X 2016 AND ACT VII 2023)**

*Edinburgh, 16 May 2015, Session I*

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

1. For the purposes of this Act:
  - (a) “appointment” shall mean the appointment of a minister (other than the induction of a minister) or deacon to work with or within the life and witness of a congregation. An appointment may be part or full-time, paid or unpaid. An appointment may be made by the Kirk Session, Congregational Board, Deacons’ Court, Committee of Management or other body responsible for employing persons on behalf of a congregation or by the Presbytery or by a Standing Committee of the General Assembly. An appointment shall include the appointment of an Interim Moderator, Ordained Local Minister, Interim Minister, Transition Minister, Pioneer Minister or Associate Minister. “Appointed” shall be construed accordingly.
  - (b) “call” means the instrument referred to in the Vacancy Procedure Act (Act VIII 2003), sections 26 and 30.
  - (c) “same sex civil partnership” shall mean a civil partnership entered into between persons of the same sex which is recognised in terms of the Civil Partnership Act 2004, section 1.
  - (d) “congregation” shall have the meaning assigned to it in the Presbytery Mission Plan Act (Act VIII 2021), section 1.1(f).
  - (e) “deacon” shall mean a person who is a deacon within the meaning of the Deacons Act (Act VIII 2010), section 1.
  - (f) “linking”, “deferred linking” and “deferred union” shall have the meanings assigned to them in the Presbytery Mission Plan Act (Act VIII 2021), section 7.
  - (g) “minister” shall mean a Minister of Word and Sacrament as defined in section 1(2) of the Parish Ministry Act (Act II 2018).
  - (h) “Presbytery” shall mean the presbytery of the bounds of the congregation concerned.
  - (i) “same sex marriage” shall mean a marriage between persons of the same sex which is recognised in terms of the Marriage and Civil Partnership (Scotland) Act 2014.
  - (j) “vacancy” shall mean the state in which a charge finds itself when it is without an inducted minister and shall include the situation of a prospective vacancy where

an Interim Moderator has been appointed under section 6(1) of the Vacancy Procedure Act (Act VIII 2003).

- 2 (1) The historic and current doctrine and practice of the Church in relation to human sexuality (including marriage) and their application to the ministers and deacons of the Church are hereby affirmed.
  - (2) For the avoidance of doubt, the historic and current doctrine and practice of the Church in relation to human sexuality, their application to the ministers and deacons of the Church and the provisions of this Act are points on which there is liberty of opinion in accordance with Article Declaratory V. Departure from the doctrine of the Church is permitted to this extent.
  - (3) In recognition of the diversity of views within the Church about the historic and current doctrine and practice of the Church in relation to human sexuality and their application to the ministers and deacons of the Church and in the interests of the peace and unity of the Church, departure from the practice of the Church shall be permitted to (i) Kirk Sessions in terms of section 3 of this Act, and (ii) Presbyteries in terms of section 4A of this Act. In this Act, the term 'depart' and its variants shall be construed accordingly.
3. (1) As from the date of this Act, a Kirk Session may decide to depart in order to permit the ordination, induction or appointment of a minister or a deacon who is in a same sex civil partnership or a same sex marriage.
  - (2) A Kirk Session may decide that it wishes to depart only:
    - (a) in time of vacancy after meeting with the Advisory Committee in terms of section 13(2)(a) of the Vacancy Procedure Act and before the appointment of the Nominating Committee in terms of section 15 of the Vacancy Procedure Act;
    - (b) in time of vacancy between the Presbytery instructing the appointment of a fresh Nominating Committee and the appointment of that Committee in terms of section 28(b) of the Vacancy Procedure Act;
    - (c) at the time when the making of an appointment is being considered and before applications are sought;
    - (d) in terms of section 3(3) of this Act; or,
    - (e) in terms of section 3(9) of this Act.
  - (3) Where a congregation in vacancy has appointed a Nominating Committee prior to the date of this Act, the Kirk Session shall be entitled to make a decision to depart in respect of that vacancy in accordance with the provisions of sections 3(4)-(7).



- (4) When deciding whether or not to depart, the Kirk Session shall take account of the peace and unity and pastoral needs of the congregation and of any parish or other grouping of which it is a part.
- (5) To be effective, a decision to depart shall require to be taken in respect of each induction or appointment and may only be taken as follows:
  - (a) A meeting of the Kirk Session shall be held to take a vote on the matter. The date and time of such meeting, and its purpose, must be properly intimated to the congregation on at least two Sundays prior to its date.
  - (b) At the Session meeting, a vote shall be taken on whether or not to depart.
- (6) A meeting held in terms of section 3(5) shall be constituted in prayer in accordance with the law and practice of the Church. Only those members of the Kirk Session present at the meeting shall be entitled to vote. Voting shall be by secret ballot using voting papers printed in the form of Schedule 1 hereto. Intimation of the meeting shall be in terms of the edict annexed in Schedule 2 hereto.
- (7) A Kirk Session which has decided to depart shall intimate its decision by sending an extract minute to the Presbytery Clerk within seven days.
- (8)
  - (a) A minister or deacon in a same sex civil partnership or a same sex marriage may not be inducted or appointed to a congregation which is in a linking or in deferred linking or deferred union unless the Kirk Sessions of all the other congregations affected have also decided and intimated that they wish to depart.
  - (b) Where it is an explicit provision of a Basis of Union or Linking that the minister of one of the congregations involved shall be minister of the united or linked charge and that minister is in a same sex civil partnership or a same sex marriage, the Basis of Union or Linking shall not be put to a vote of any of the other congregations in terms of the Presbytery Mission Plan Act (Act VIII 2021), section 8.2, unless their Kirk Sessions have also decided and intimated that they wish to depart.
  - (c) In the case of a Team Ministry, a decision to depart or not to depart, once taken, shall apply to all other posts within the Team Ministry as and when such posts become vacant for the following five years, unless there is a request at an earlier date for the matter to be revisited and a new vote held. Such a request must be signed by a majority of the ruling elders on the Kirk Session, or where the ruling Elders exceed nine in number, at least one-third with a minimum of five.
- (9)
  - (a) In the event of a minister or deacon subsequently entering into a same sex civil partnership or a same sex marriage, that minister or deacon having been inducted or appointed to a congregation the Kirk Session of which had not decided to depart in relation to his or her induction or appointment, the Presbytery shall:

- (i) move without delay to offer support and counsel to all affected parties; and,
  - (ii) in accordance with the provisions of sections 3(4)-(7) and as soon as is practicable, convene the appropriate meeting of the Kirk Session at which the Kirk Session may decide that it wishes to depart.
- (b) Unless the Kirk Session decides to depart in terms of section 3(9)(a)(ii), the pastoral tie shall be dissolved or the appointment terminated as appropriate.
  - (c) Where a congregation is in a linking or in deferred linking or deferred union, the pastoral tie shall be dissolved or the appointment terminated unless the Kirk Sessions of all the other congregations affected have also decided and intimated that they wish to depart.
  - (d) In the event of the pastoral tie being dissolved in terms of section 3(9)(b) or (c), provision shall be made for the minister in the same way as provided in section 18 of the Congregations in Unsatisfactory State Act (Act I 1988).
  - (e) Except as provided for in section 3(9)(f), sections 3(9)(a)-(d) shall apply to any minister or deacon whether inducted or appointed before or after the date of this Act.
  - (f) In respect of ministers and deacons who were ordained or inducted or appointed before 31 May 2009, sections 3(9)(a)-(d) shall not apply in respect of a charge or appointment held as at the date of this Act.
- (10) For the avoidance of doubt a person in a same sex civil partnership or a same sex marriage may only be ordained by a Presbytery as an Ordained Local Minister where there is an agreed designated appointment to a congregation the Kirk Session of which has decided to depart.
4. Subject to section 3(9), the entitlement of a minister or deacon who was ordained or inducted or appointed before 31 May 2009 to remain as a minister or deacon on the same terms and with the same status as any other minister or deacon shall not be prejudiced because he or she was or is in a same sex relationship.
- 4A. Where a Presbytery is considering the appointment of a minister who is in a same sex marriage or same sex civil partnership as Interim Moderator to a charge, written intimation of the proposed appointment shall be given to the Kirk Session(s) of the charge. If, within fourteen days of the date of the sending of the intimation, the Session Clerk sends to the Presbytery Clerk with the approval of a majority of the Session a notice requesting that the appointment does not proceed, no further steps in relation to the appointment shall be taken.
5. (1) A person who is in a same sex civil partnership or a same sex marriage shall be eligible for selection, training and, as provided for in section 3, ordination as a minister or deacon.

- (2) Once ordained, a minister or deacon who is in a same sex civil partnership or a same sex marriage shall have the same status, rights and responsibilities as any other minister or deacon respectively, except that he or she (i) may not be inducted or appointed to a congregation the Kirk Session of which has not decided to depart in terms of section 3, and (ii) may not be appointed as an Interim Moderator if a notice from the Session has been sent as provided for in section 4A.
6. In relation to the doctrine and practice of the Church affirmed in section 2, the right to depart provided for in section 3 and the provisions of sections 4 and 5:
  - (1) A Presbytery shall not be entitled to refuse to sustain a call to a minister solely on the ground that he or she is in a same sex civil partnership or a same sex marriage, provided that the call is made by the members and adherents of a congregation the Kirk Session of which has decided to depart in terms of section 3 of this Act. The rights and responsibilities of a Presbytery to exercise superintendence over all the congregations within its bounds are otherwise unchanged.
  - (2) A member of a Presbytery may decline, on the ground of his or her differing convictions, to accept appointment or to continue as Interim Moderator of a congregation the Kirk Session of which has decided to depart in terms of section 3 of this Act.
  - (3) A member of a Presbytery may decline, on the ground of his or her differing convictions, to attend the ordination, induction or introduction of a minister or deacon who is in a same sex civil partnership or a same sex marriage within the bounds of the Presbytery.
  - (4) Other than as provided for in sections 6(2) and (3) a member of a Presbytery shall not be excused the duties or responsibilities of membership.
  - (5) A Presbytery shall take account of differences of opinion among its members and congregations when conducting its business and fulfilling its duties and responsibilities and shall at all times have regard to the peace and unity of the Church.
  - (6) If required, a Presbytery shall invite one or more members of one or more other Presbyteries to associate with the Presbytery for the purpose of effecting an ordination, induction or introduction. Such members of other Presbyteries shall be deemed to be members of the inviting Presbytery for the purpose of effecting the ordination, induction or introduction only. Section 30 of the Church Courts Act (Act III 2000) shall be construed accordingly.
7. The provisions of this Act give effect to the strongly held religious convictions of significant numbers of the followers of the Church of Scotland.
8. Nothing in this Act implies that the Church permits or will permit its ministers or deacons to register same sex civil partnerships or solemnise same sex marriages.

9. For the avoidance of doubt, a person with a legitimate interest who is aggrieved by a decision made by a court in terms of this Act, may appeal to Presbytery only on one or more of the legal grounds specified in section 1 of the Intimation of Appeals Act (Act V 2004).

**Schedule 1**

Voting Paper – section 3(6)

FOR departure from the Church’s practice in relation to human sexuality in respect of [ <i>*the current vacancy / *the proposed appointment of a (insert title of appointment)</i> ]	
AGAINST departure from the Church’s practice in relation to human sexuality in respect of [ <i>*the current vacancy / *the proposed appointment of a (insert title of appointment)</i> ]	

*Footnote: A vote in favour of departure will allow applications for [*\*the current vacancy / \*the proposed appointment of a (insert title of appointment)*] to be considered from, amongst others, individuals who are in a same sex civil partnership or a same sex marriage.*

*\*Please select appropriate alternative*

**Schedule 2**

Edictal intimation of Kirk Session meeting to be read out to congregation – section 3(6)

*To be read on two Sundays*

This is intimation that a meeting of the Kirk Session of this congregation is to be held at [*place*] on [*date*] at [*time*].

In recognition of the diversity of views within the Church about the historic and current doctrine and practice of the Church in relation to human sexuality and in the interests of the peace and unity of the Church, departure from the practice of the Church in relation to human sexuality is permitted in certain circumstances.

The purpose of the Kirk Session meeting just intimated will be for the Kirk Session to decide whether or not to depart from the Church’s practice in relation to human sexuality in order for applications for [*\*the current vacancy / \*the proposed appointment of a (insert title of appointment)*] to be considered from, amongst others, individuals who are in a same sex civil partnership or a same sex marriage.

The decision will be determined by the votes of a majority of those present and entitled to vote.

C.....D.....Interim Moderator

*\*Please select appropriate alternative.*

*Note: the form of the above edictal intimation will require to be amended appropriately where the charge in question is part of a linking, deferred linking or deferred union.*



## **V PRESBYTERY MISSION INITIATIVES ACT (ACT V 2015)**

*Edinburgh, 20 May 2015, Session V*

The General Assembly enact and ordain as follows;

1. In this Act:
  - (1) “congregation” shall, when referring to a Church of Scotland congregation, have the meaning assigned to it in the Appraisal and Adjustment Act (Act VII 2003), section 1(b);
  - (2) “Core Leadership Team” shall mean those persons appointed to lead the Presbytery Mission Initiative and who have the responsibilities outlined in the Schedule to this Act;
  - (3) “Covenant” shall mean an agreement by which a Presbytery Mission Initiative is set up in terms of section 3 of this Act;
  - (4) “Presbytery” shall mean the presbytery of the bounds of the Church of Scotland congregation or congregations who are sponsoring a Presbytery Mission Initiative;
  - (5) “Presbytery Mission Initiative” shall mean a Christian community whose purpose is to witness, serve and worship and which has been established in terms of section 3 of this Act;
  - (6) “Sponsoring Congregation” shall mean a congregation which is party to a Covenant and may be a congregation or community from another Christian denomination; and,
  - (7) “Supervising Congregation” shall mean a congregation of the Church of Scotland which is a Sponsoring Congregation which undertakes the responsibilities outlined in the Schedule to this Act.
2.
  - (1) The Church of Scotland is committed to the principles enshrined in the third Article Declaratory and to be a national church with a distinctive evangelical and pastoral concern for the people and nation of Scotland.
  - (2) In particular, the Church is committed to maintaining witnessing, serving and worshipping Christian congregations throughout Scotland.
  - (3) In order that the Church may more effectively fulfil these commitments, new forms of witnessing, serving and worshipping Christian communities may be established by means of Presbytery Mission Initiatives. Without prejudice to this generality, a Presbytery Mission Initiative may witness, serve and worship as a network or other non-location specific form provided that its main purpose is to witness, serve and worship within the bounds of the Presbytery,
  - (4) A Presbytery Mission Initiative may include or witness, serve and worship in partnership with or alongside a congregation or community from another Christian denomination.

- (5) This Act places no restriction on any other expression of Christian witness, service and worship which otherwise complies with the law of the Church.
3. (1) On the instructions, at the request or with the agreement of the Presbytery, one or more congregations within a Presbytery may agree to set up and sponsor a Presbytery Mission Initiative.
  - (2) For this purpose, the Sponsoring Congregation or Congregations and the Presbytery shall enter into a Covenant.
  - (3) A Covenant shall reflect and be consistent with the provisions of Schedule hereto and shall be in a form from time to time prescribed by the Faith Nurture Forum after consultation with the Legal Questions Committee.
  - (4) A Presbytery Mission Initiative shall be subject to the superintendence of the Presbytery. Without prejudice to the right and responsibility of the Presbytery to exercise such superintendence as it deems to be appropriate, the Presbytery shall conduct a review of a Presbytery Mission Initiative at least once every five years.
4. For the avoidance of doubt, the provisions of the Parish Ministry Act (Act II 2018), section 4 (which relate to the entry of a minister into another parish) do not to apply to anything done by a minister in furtherance of a Presbytery Mission Initiative.

#### **Schedule**

1. (1) One of the Sponsoring Congregations shall be the Supervising Congregation. Where there is only one Sponsoring Congregation, that congregation shall be the Supervising Congregation. The Supervising Congregation must be a congregation of the Church of Scotland.
  - (2) The Supervising Congregation shall:
    - (a) ensure that all requirements of the law of the Church of Scotland and civil law are fulfilled by the Presbytery Mission Initiative;
    - (b) hold any funds or other assets, whether heritable or moveable, accumulated by the Presbytery Mission Initiative;
    - (c) agree with the Core Leadership Team how any such funds or assets are administered on a day-to-day basis.
2. A Presbytery Mission Initiative shall have a Core Leadership Team which shall include one or more representatives of the Supervising Congregation and one or more representatives of one or more of the other Sponsoring Congregations. No less than two-thirds of the members of the Core Leadership Team shall be drawn from Church of Scotland congregations.
3. The life and witness of a Presbytery Mission Initiative shall be the responsibility of its Core Leadership Team. Without prejudice to this generality, the Core Leadership Team shall be responsible for



- (1) developing appropriate expressions of worship, witness and service; and,
  - (2) ensuring that the Presbytery Mission Initiative is adequately resourced taking account of the commitments of the Sponsoring Congregations and others to support it.
- 4.
- (1) For the purposes of Church and civil law, the Supervising Congregation shall be deemed to be the owner of any funds or other assets, whether heritable or moveable, accumulated by the Presbytery Mission Initiative.
  - (2) The Supervising Congregation shall apply such funds or other assets for the benefit of the Presbytery Mission Initiative for as long as it continues to function or to exist.
  - (3) If the Presbytery Mission Initiative, for whatever reason, ceases to function or to exist, such funds or other assets shall remain the absolute property of the Supervising Congregation. The Supervising and other Sponsoring Congregations may agree to divide such funds or other assets among them.
- 5.
- (1) The Presbytery Mission Initiative shall not be liable for Ministries and Mission Contributions.
  - (2) Notwithstanding that they are owned by the Supervising Congregation, any funds or other assets held by the Supervising Congregation in terms of Schedule 4, shall be ignored in determining its Ministries and Mission Contributions for as long as the Presbytery Mission Initiative continues to function or to exist.
- 6.
- (1) A Presbytery Mission Initiative is not and shall not be treated as a congregation of the Church of Scotland.
  - (2) A Presbytery Mission Initiative shall have such representation within the life of the Presbytery as is agreed in the Covenant.
- 7.
- (1) A Presbytery Mission Initiative shall not have independent legal personality.
  - (2) Neither a Presbytery Mission Initiative nor a Core Leadership Team nor any person acting on behalf of a Presbytery Mission Initiative or a Core Leadership Team shall have any authority or power to enter into contracts or to incur liabilities in any capacity.
  - (3) Neither a Presbytery Mission Initiative nor a Core Leadership Team nor any member of either shall allow any holding out or other conduct (including silence) that might cause an inference contrary to Schedule 7(2) to be drawn by any person.



## **II THE INTERNATIONAL PRESBYTERY ACT (ACT II 2016) (AS AMENDED BY ACT II 2017, ACT XVII 2022 AND ACT IX 2023)**

*Edinburgh 21 May 2016, Session I*

The General Assembly enact and ordain as follows:

1. For the purposes of this Act the following terms shall be deemed to have the meanings hereby assigned to them:
  - (1) “the FAPLT” shall mean the General Assembly’s Faith Action Programme Leadership Team or any successor body assuming the responsibilities, functions and interests of the FAPLT.
  - (2) “the Presbytery of International Charges” shall mean the Presbytery of the Church of Scotland covering all Charges of the Church of Scotland beyond the United Kingdom, the Isle of Man and the Channel Islands (excluding the Charges within the bounds of the Presbytery of Jerusalem); and “Presbytery” shall be construed accordingly. For the avoidance of doubt, the Presbytery will assume the assets and liabilities of the existing Presbytery of Europe.
  - (3) “Charge” shall mean any of the congregations specified in Schedule 1 hereto, as the list may from time to time be amended by the Presbytery, subject to the concurrence of the FAPLT.
  - (4) “Partner Church” shall mean a denomination with which the Church of Scotland or any Charge in the Presbytery is connected, whether constitutionally or in fellowship only.
  - (5) “Kirk Session” shall mean a Court of the Church with spiritual oversight of a congregation of a Charge (and that notwithstanding that it may be known by another name and may function within the constitution of a Partner Church by such other name).
  - (6) “Financial Board” shall mean the body within a Charge having responsibility for its finances.
2. The Presbytery shall, except as otherwise provided for in this Act or in any other legislation of the Church, have the same powers and duties as Presbyteries in Scotland. Membership of the Presbytery shall be in accordance with Act III 2000. The Presbytery shall adopt the current policies, procedures, Standing Orders, Presbytery Plan and other documents regulating the business of the existing Presbytery of Europe.
3. Charges shall comply with the law, custom and practice of the Church as existing from time to time, save as follows: (1) where to do so would be in contravention of the laws, regulations and practice applying in the legal jurisdiction within which a Charge is located, in which event the Kirk Session may, acting reasonably, adopt an appropriate approach so as not to breach such local laws, regulations and practice, and (2) as specified in sections 4 to 8 of this Act.
4. In relation to the appointment of ministers to the Charges, the provisions of Schedule 2 hereto shall apply.
5. In relation to financial arrangements for the Charges, provisions shall be made by way of Regulations.

6. In relation to review of Charges by the Presbytery, the provisions of Schedule 3 hereto shall apply.
7. In relation to heritable properties used by the Charges, the provisions of Schedule 4 hereto shall apply.
8. In relation to Vacancy Procedure in the Charges, the provisions of Schedule 5 hereto shall apply.
9. Nothing in this Act shall affect the rights and position of existing ministers in the Presbytery.
10. Wherever any existing Church legislation is mentioned in this Act and such legislation is thereafter replaced or amended, the section(s) of this Act in question shall then be read as if reference to the replacement and/or amended legislation had been inserted.
11. This Act shall come into effect on 21 May 2016 and Act VIII 2007 (as amended) and Act II 2008 shall be repealed on that date.

**Schedule 1  
Charges**

<b>COUNTRY</b>	<b>CITY</b>	<b>Church of Scotland</b>
Belgium	Brussels	St Andrew's Church
Bermuda	Warwick	Christ Church
France	Paris	The Scots Kirk
Hungary	Budapest	St Columba's Church
Italy	Rome	St Andrew's Church
Malta	Valletta	St Andrew's Scots Church
Netherlands	Amsterdam	The English Reformed Church
	Rotterdam	Scots International Church
Portugal	Lisbon	St Andrew's Church
Sri Lanka	Colombo	St Andrew's Scots Kirk
Switzerland	Geneva	Church of Scotland
	Lausanne	The Scots Kirk
Trinidad and Tobago	Port of Spain	Greyfriars St Ann's, Port of Spain, linked with Arouca and Sangre Grande

**Schedule 2  
Appointment of Ministers**

- 1. Appointments to Charges**
  - 1.1 As the concept of "holder of an office" is not one recognised in most jurisdictions in the Presbytery, ministers elected to a Charge shall, while continuing to be holders of an

office in Church law, enter into a contract of employment with the Kirk Session in such form as may be required in the relevant legal jurisdiction. It shall be a term of all such contracts that, where the minister is a minister of the Church of Scotland, he or she must retain his or her status as a minister of the Church of Scotland and that, where the minister is the holder of a Restricted Certificate of Eligibility under s.12(c) of the Admission and Readmission of Ministers Act (Act XIII 2022), he or she must both retain their status as a minister of their denomination of origin and not have their Restricted Certificate of Eligibility withdrawn by the Church of Scotland.

- 1.2 For the avoidance of doubt, all ministers in Charges remain subject to the discipline of Presbytery and the General Assembly and neither the congregation nor the Kirk Session has any power to dismiss the minister save that the Kirk Session shall be required by the Presbytery to terminate a minister's contract of employment where the minister no longer retains his or her status as a minister of the Church of Scotland or in his or her denomination of origin, or where the minister is judicially suspended for a period of six months or more, or where the minister has been introduced with a Restricted Certificate of Eligibility and this is withdrawn by the Church of Scotland; a Kirk Session may also be required by the Presbytery to terminate a minister's contract of employment in terms of paragraph 4 of this Schedule 2.

## 2. **Persons Eligible for Appointment**

- 2.1 Those eligible for appointment to be ministers of the Charges shall be the categories of persons listed in section 18 of the Vacancy Procedure Act (Act VIII 2003) as being persons eligible to be nominated, elected and called as minister of parishes in the Church of Scotland, and holders of a Restricted Certificate of Eligibility under section 12(c) of the Admission and Readmission of Ministers Act (Act XIII 2022), except as provided in the following paragraphs.
- 2.2 When a minister of the Methodist Church is appointed to the charge of St Andrew's Scots Church, Malta, it is expressly provided that such minister shall be introduced by the Presbytery and the Methodist Church, shall retain status as a minister of the Methodist Conference and shall have full membership of the Presbytery with all the rights, privileges and duties associated therewith and, in particular, shall be authorised to moderate the Kirk Session of the charge. Ministerial discipline shall be in accordance with the procedures of the Methodist Church. 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.
- 2.3 In the event that the Presbytery establishes a new ecumenical partnership in an existing Charge, and the minister of a Partner Church is appointed, it is expressly provided that such a minister shall be introduced by the Presbytery and the other Church, shall retain status as a minister of the Partner Church and shall have full membership of the Presbytery with all the rights, privileges and duties associated therewith and, in particular, shall be authorised to moderate the Kirk Session of the Charge. Ministerial discipline shall be in accordance with the procedures of the Partner Church of the minister. 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.

- 2.4 The ministers of any of the Charges in the Presbytery may be Mission Partner appointments, made by the appropriate agency of the Church, of (i) Church of Scotland ministers, or (ii) ministers holding a Restricted Certificate of Eligibility under s.12(c) of the Admission and Readmission of Ministers Act (Act XIII 2022).
- 3. New Ministerial Appointments**  
In the case of a new ministerial appointment being made after the coming into effect of this Act, the following shall apply:-
- 3.1 The stipend shall be based on the national stipend scale for Scotland, adjusted for local conditions. The Presbytery shall, in consultation with the Kirk Session of the Charge in question and with the concurrence of the FAPLT, decide on the stipend and on any other special terms and conditions applicable to the appointment as provided for in the Supplementary Stipend Review Procedure agreed between the Presbytery and the FAPLT, which Procedure may be amended by the Presbytery from time to time but only with the consent of the FAPLT. In the case of a Methodist minister appointed to Malta, the relevant Methodist Church of Great Britain stipend will apply, adjusted for local conditions.
- 3.2 The other terms and conditions of the minister's appointment shall be regulated by the Guidance for Ministers Taking Up or Demitting a Charge as agreed between the Presbytery and the FAPLT, which Guidance may be amended by the Presbytery from time to time but only with the consent of the FAPLT.
- 3.3 As regards the manse, the Presbytery shall proceed in terms of Act VIII 2003 and the Supplement to Manse Conditions and Guidelines agreed between the Presbytery and the FAPLT, which Supplement may be amended by the Presbytery from time to time but only with the consent of the FAPLT.

#### **4. Termination of employment**

If at any time a Kirk Session determines that it will be unable to fulfil the financial commitments it made at the time of introduction regarding payment of the costs of ministry for more than 3 months ahead, it will notify the Presbytery Clerk and the appointment of the minister shall be terminated by the Kirk Session if the Presbytery so instructs, and the Presbytery shall bear the cost of (i) any statutory compensation payable to the minister, (ii) up to a further 3 months' salary from the date of termination, (iii) the reasonable cost of travel back to Scotland (or other country from which the minister came on taking up the appointment) for the minister and family residing with him or her, and (iv) removal expenses (back to Scotland or the country from which the minister came) for furniture and personal effects up to a maximum of 25 cubic metres.

### **Schedule 3 Arrangements relating to the Review of Charges**

1. It shall be the duty of the Presbytery to comply with the terms of Act VII 2003 and to keep the Charges under review. The Presbytery Planning Task Group of the FAPLT

shall have normal involvement in Presbytery planning, as would apply for any other Presbytery.

2. The allocation of Full-Time Equivalent ministries for the Presbytery shall be set from time to time by the General Assembly on the recommendation of the FAPLT.
3. In the event of proceedings being initiated under Act I 1988, the Presbytery may in consultation with the Legal Questions Committee co-opt one or more members of the Committee of Inquiry from outwith the Presbytery.
4. On a vacancy arising for any reason in a Charge, the Presbytery shall apply the terms of Act VIII 2003 in so far as practicable in the local conditions.
5. If the Presbytery, with the concurrence of the Presbytery Planning Task Group, decides that a Charge cannot continue as previously constituted, all the forms of readjustment provided for by Act VII 2003 (as amended), as adapted to take account of local conditions, shall be competent. In the event of the readjustment decided upon requiring the termination by the Presbytery of the minister's tenure, the minister, subject to the disposal of any appeal in the event of the minister exercising his or her right of appeal to the Appeals Committee of the Commission of Assembly, shall on the date of termination be deemed to have demitted his or her charge. The minister shall in such circumstances be entitled to payment of expenses according to the Presbytery's Guidance for Ministers Taking Up or Demitting a Charge as agreed between the Presbytery and the FAPLT, which Guidance may be amended by the Presbytery from time to time but only with the consent of the FAPLT.
6. If the Presbytery decides, in consultation with the FAPLT through the process of appraisal and adjustment, that circumstances exist which would justify the creation of a new Charge, the Presbytery in consultation aforesaid, shall proceed to take all steps necessary to constitute and establish the new Charge, including the provision of suitable buildings whether by sharing, renting or purchase, and the appointment of a minister.
7. The FAPLT shall report any readjustment or the establishment of any new Charge to the next General Assembly and Schedule 1 hereof shall be amended accordingly.

#### **Schedule 4 Arrangements for Heritable Properties**

1. The heritable property pertaining to a Charge ("the property") shall be held by the Financial Board and the Trustees in whom title is vested for the use of and occupation by the Charge concerned. Where local law permits, it shall always be open to the Trustees to transfer the title to their property to the Church of Scotland Trust ("the Trust").
2. Matters relating to the day-to-day management of the property shall be dealt with by the Financial Board of the Charge. It shall be the duty of the Financial Board to maintain the fabric of the property in proper order and repair and fully insured against

loss or damage by fire and also against loss or damage by such other risks or perils as are from time to time deemed appropriate by the Financial Board.

3. Without the consent of the Presbytery and of the Trust, it shall not be lawful nor in the power of the Financial Board nor the Trustees in whom title is vested (if other than the Trust) to make any extensive alterations to the property, nor to sell, let (other than on agreements which do not grant security of tenure of more than one year), convey, exchange or otherwise dispose of and deal with the same nor to give and execute mortgages, charges, pledges or other securities over the property. For the purposes of this Act, "extensive alterations" shall have such meaning as shall from time to time be determined by the Presbytery and the Trust acting together.
4. Without the consent of the Presbytery and of the Trust, the Financial Board shall not purchase or take on lease for a period in excess of one year any additional heritable property and, except where all the funds for the purchase or to meet the obligations under the lease are being provided by members or other persons associated with the Charge or from the disposal of property, title to which is not vested in the Trust, title or right to the additional heritable property being acquired or leased shall where local law permits and the Trust agrees be taken in name of the Trust.
5. The Financial Board and the Trustees in whom title to the property is vested (if other than the Trust or *ex officio* trustees who are office holders of the General Assembly of the Church of Scotland) shall each year submit a written report to the Presbytery concerning the property which shall include details of their management and maintenance thereof and summarise the details of the insurance cover in force with respect to the property. At the year-end the Presbytery shall report diligence to the Trust in respect of property vested in it. In reporting to the Trust the Presbytery is further encouraged, in relation to all property, but subject to such adaptations as may be appropriate to accommodate local laws, regulations and circumstances, to comply with the processes and procedures as set down by The Church of Scotland General Trustees from time to time as to annual inspections and returns in relation to heritable properties.

## **SCHEDULE 5**

### **Vacancy Procedures**

Save in relation to the charge of St Andrew's Scots Church, Malta, where the provisions of the Local Ecumenical Partnership apply, and in any Charges where Mission Partner appointments are being made, on the occurrence of a vacancy or prospective vacancy in any Charge in the Presbytery, the provisions of the Vacancy Procedure Act (Act VIII 2003 as amended) (hereinafter referred to as 'the Act') shall apply only in so far as not inconsistent with the following provisions, which following provisions shall in that event prevail:

#### **1. Vacancy Procedure Committee**

As soon as the Vacancy Procedure Committee is aware of a vacancy or prospective vacancy, it shall:

- a) determine the release of the minister and the date on which the Charge will become vacant (in terms of s.4 of the Act);
- b) appoint an Interim Moderator for the Charge;



- c) appoint an Advisory Committee; and
- d) issue to the Kirk Session (or, where there is a financial board, to that board) of the vacant congregation, for completion and return, a Vacancy Schedule in a form specific to the Presbytery to set out (i) the details of congregational income, (ii) the proposed arrangements for payment of ministerial costs and expenses, and (iii) the costs and arrangements for the provision of a manse. The provisions of s.10(1) and (2) of the Act shall not apply.

## **2. Effective Date of Decisions of the Vacancy Procedure Committee**

The Presbytery Clerk shall issue notice of the decisions of the Vacancy Procedure Committee in terms of Sch. A of the Act to the congregation and by email to all members of Presbytery, including the provision that these decisions shall become effective 7 days after notice is given, unless the Clerk receives valid notice under s.2(2) of the Act.

## **3. Vacancy Schedule**

The Kirk Session or financial board of the vacant Charge must complete and return the following items to the Presbytery Clerk: (i) the Vacancy Schedule in the form provided by Presbytery, (ii) an Extract Minute of the Kirk Session "making a commitment fully and adequately to financially support the ministry" in the Charge and (iii) a duly completed Manse Condition Schedule.

## **4. Manse**

Following receipt of the completed Manse Condition Schedule, the Fabric Committee of Presbytery shall arrange for the inspection of the manse and shall report to the Vacancy Procedure Committee on what action (if any) requires to be undertaken by the congregation before a date can be set for any introduction of the minister. The decision of the Vacancy Procedure Committee on considering that report will be advised to the Kirk Session, along with an instruction to carry out whatever works are required.

## **5. Permission to Call**

- (1) On the Vacancy Procedure Committee being satisfied with the completed Vacancy Schedule, Extract Minute and Manse Condition Schedule and being satisfied that the Charge has no current or accumulated shortfalls in its contributions to central funds, that the Charge can pay the costs of a minister in terms of the Vacancy Schedule and that the provisions of s.5 of the Presbytery Mission Plan Act (Act VIII 2021) are complied with, it shall consider whether it may give permission to call a minister in terms of the Presbytery Mission Plan approved under Act VIII 2021.
- (2) Any decision to grant permission to call shall be subject to the provisions of s.2 of the Act. For the avoidance of doubt, the provisions of section 8 of the Act do not apply.

## **6. Profile**

The Kirk Session of the vacant congregation in preparing a draft Profile (once permission to call has been granted) shall include in it details from the Vacancy Schedule, including particularly details of salary level and ministry costs and the congregation's income, and shall also make reference to the Presbytery's Guidance for Ministers Taking Up or Demitting a Charge.

## **7. Eligibility for Election**

For Charges in the Presbytery, section 18 of the Act shall include the holder of a Restricted Certificate of Eligibility in terms of section 12(c) of the Admission and Readmission of Ministers Act (Act XIII 2022).

### **8. Sustaining the Call**

Once the Presbytery Clerk has received the Call and other required documents (in terms of s.29 of the Act), along with one of the following:

- (i) a Certificate of the minister's registration under Category O on the Register of Ministry, or
- (ii) a valid certificate of completion of training issued by the FAPLT (an Exit Certificate) which has not expired; or
- (iii) confirmation from the FAPLT that the minister has been granted a Restricted Certificate of Eligibility in respect of the Charge)

the Vacancy Procedure Committee will consider sustaining the Call and, provided (a) any works required to the manse have been satisfactorily completed and (b) the following Safeguarding requirements have been met, determine arrangements for the minister's introduction. No call can be sustained until the Presbytery receives evidence of the minister's membership of the PVG Scheme as defined in the Safeguarding Act (Act XVI 2018), or, in the case of a minister who is not a minister of the Church of Scotland, of reasonably equivalent clearance as required by the Safeguarding Service and appropriate to the jurisdictions both where the minister came from and will serve.

### **9. Guidelines**

The Presbytery shall approve Supplementary Guidelines to those referred to in section 34 of the Act to provide details of the vacancy procedures specific to Charges in the Presbytery, in conformity with the provisions of this Schedule 5.

### **10. Notices**

Notices may be given by pulpit intimation or by electronic means or by a combination of these methods.

## **II REGISTRATION OF MINISTRIES ACT (ACT II 2017) (AS AMENDED BY ACTS VIII AND XIV 2018, I 2019, V 2020 AND II 2024)**

*Edinburgh, 20 May 2017, Session I*

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 make subsequent amendments to the Rules of Procedure, and such amendments 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 make subsequent amendments to the Criteria for Assessment, and such amendments 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**

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.
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**

5. The provisions contained in sections 6 and 7 shall apply to the initial creation of the Register, in the period following implementation of this Act.
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 Faith Nurture Forum by 1 October 2017, with a view to the Faith Nurture Forum 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.
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 33 of this Act.

### **Maintenance of the Register**

8. Once the Register has been initially compiled, the Faith Nurture Forum shall maintain the Register, with the assistance of Presbyteries.
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 XIII 2022) to membership of Presbytery, the Presbytery concerned shall send a relevant extract minute to the Faith

Nurture Forum. On receipt of such an extract minute, the Faith Nurture Forum 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 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 24, 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 33 of this Act.

- 10. Upon written request by an individual, the Faith Nurture Forum shall provide to that individual a certified extract of his or her entry on the Register.

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

- 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:

<b>Category</b>	<b>Meaning</b>	<b>Examples</b>
<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 and Associate Ministers.
<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 in other circumstances, but not to hold a pastoral charge.	Chaplains (including Regular Forces’ Chaplains); Ministers with employment contracts, with the exception of those listed under Category <b>O</b> above.

<b>R</b>	Retaining status as a minister and authorised to perform the functions of ministry outwith an appointment covered by Category <b>O</b> or Category <b>E</b> .	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, save where authorised under section 16 of this Act.	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 29 of this Act.	
<b>S</b>	Suspended judicially in terms of the Discipline of Ministry Act (Act III 2001) or the Discipline Act (Act I 2019). For the avoidance of doubt, this does not include an individual who has been administratively suspended under Act III 2001 or Act I 2019.	

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

<b>Category</b>	<b>Meaning</b>	<b>Examples</b>
<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 outwith an appointment covered by Category <b>O</b> .	
<b>I</b>	Inactive – retaining status as a minister but no longer authorised to perform the functions of	This may include an individual who declares to Presbytery that he/she no

	ministry, save where authorised under section 16 of this Act.	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) or the Discipline Act (Act I 2019). For the avoidance of doubt, this does not include an individual who has been administratively suspended under Act III 2001 or Act I 2019.	

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

<b>Category</b>	<b>Meaning</b>	<b>Examples</b>
<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 outwith an appointment covered by Category <b>E</b> .	
<b>I</b>	Inactive – retaining status as a Deacon but no longer authorised to perform the functions of the diaconate save where authorised under section 16 of this Act.	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) or the Discipline Act (Act I 2019). For the avoidance of doubt, this does not include an individual who has been administratively suspended under Act III 2001 or Act I 2019.	

### **Functions of ministry**

14. The functions of ministry referred to in sections 11 and 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**

15. The functions of the diaconate referred to in section 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 4 of the Parish Ministry Act (Act II 2018) 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**

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**

18. The Faith Nurture Forum, 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**

19. 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 two 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 34.



- (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.
- (v) Where an individual is retiring at the age of seventy three (73) or thereafter, in which case Category **O** registration shall not be granted for a full two years but only until the date of his or her seventy-fifth birthday, subject always to the possibility of extension of that Category **O** registration to a date determined in accordance with the Continuing Parish Ministry Beyond the Age of 75 Regulations (Regs II 2018).

In the event of such an individual not taking up a relevant appointment within that two 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 24, 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.

- 20. 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 two 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 24, or else shall be entitled to choose between Category **R** or Category **I** registration and shall inform Presbytery of his or her choice.

### **Annual Review of Categories of registration**

- 21. 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 21. The first process of review shall commence in March 2018.
  - (1) Not later than 31 March each year, the Faith Nurture Forum 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 4 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 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 Faith Nurture Forum by 30 June.

### **Appeals arising from annual review process**

- 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 33 of this Act.

### **Intermediate re-categorisation by Presbyteries or by the Faith Nurture Forum**

- 23. Each of the Presbytery and the Faith Nurture Forum 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 Faith Nurture Forum. If such

re-categorisation is made by the Faith Nurture Forum 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 34 and 35 below may apply, (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, and (iii) where an individual completes a transfer from one type of ministry to another in terms of the Transfer Between Ministries Act (Act V 2019), the individual concerned may promptly be re-categorised accordingly on the Register of Ministry.

24. If a Minister or Deacon currently holding Category **O**, **R** or **I** registration takes up an employed post as defined in section 11 or section 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 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 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 Faith Nurture Forum may appeal to the Ministries Appeal Panel in terms of section 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 a certified extract of his or her entry on the Register in terms of section 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 23, subject always to the individual's right of appeal under section 25.

### **Applications for change of Category of registration**

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

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 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 27(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 27(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**

28. Any applications for a change of registration from individuals registered in Category **S** shall be dealt with in terms of this section 28.
- (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.
  - (iv) invite the Safeguarding Service, as defined in the Safeguarding Act (Act XVI 2018), to consider the application and if that Service thinks it appropriate, it shall have the Recruitment Sub-Committee (as defined in the said Act) comment on the application; provided always that if the Sub-Committee makes any recommendations, the Service shall report those to the Committee and the Committee shall adhere to them.
- (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 27 in addition to this section 28.

#### **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 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 Faith Nurture Forum (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 Faith Nurture Forum at the point(s) indicated in the Legally Binding Agreement.
  - (4) The Faith Nurture Forum 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 Faith Nurture Forum 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 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 Faith Nurture Forum has first resolved that such Minister shall be re-registered in Category **R**.

- (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 resolution from the Faith Nurture Forum with which he or she is aggrieved.

### **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 27 and 31 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 27 to 30 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 Faith Nurture Forum 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 31 shall have the right of appeal to the Ministries Appeal Panel in terms of section 33 of this Act.

### **Appeals from sections 27 to 31**

32. Any individual who is dissatisfied with a decision of the Registration of Ministries Committee in terms of sections 27 to 30 of this Act, or with a decision of Presbytery in terms of section 31 of this Act shall have the right of appeal to the Ministries Appeal Panel in terms of section 33 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 Faith Nurture Forum, 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 Faith Nurture Forum shall compile and maintain three supplementary lists, **G**, **D** and **T**, 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.
  - (3) List **T** shall contain the names of individuals who currently hold Temporary Certificates of Eligibility issued under the Admission and Re-admission of Ministers Act (Act IX 2002).
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). Any individual recorded on list **T** who wishes to become a Minister of Word and Sacrament 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.

## **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 seven persons, consisting of a Convener, Vice-Convener and five other members. One member shall be appointed by the Legal Questions Committee, one by the Faith Nurture Forum and the other five members shall be appointed by the General Assembly on the nomination of the Nomination Committee.
  - (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 five nominees. The five 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.
  - (3) The quorum of the Committee shall be three including either the Convener or Vice-Convener.
  - (4) All members of the Committee shall comply with the provisions of the Conflict of Interest Policy operated by the Assembly Trustees and the various agencies of the General Assembly (“the Policy”). Where a real or perceived conflict of interest exists (for example where an application is received from an individual within the same Presbytery as one or more members of the Committee, or from an individual with close ties to one or more members of the Committee such that a conflict of loyalty may arise) the conflict of interest shall be declared and evaluated by the Committee, which shall decide how it is to be managed in terms of the Policy. If necessary, where it is resolved that a conflict cannot be satisfactorily managed, a substitute member may be co-opted to the Committee by appointment from the Legal Questions Committee or the Faith Nurture Forum. In all circumstances, the minutes of the Committee meeting shall record the members’ discussion, the decision taken and the reasons for it all in terms of paragraph 4.4 of the Policy.
  - (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 Head of the Faith Nurture Forum. 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.

- (7) When the Committee is considering an application under section 27 of this Act from a chaplain to HM Forces, either the Convener of the Committee on Chaplains to HM Forces, or a substitute person designated by the Convener, shall be invited to attend that part of the Committee's Hearing. The Clerk of the Committee shall forward a list of proposed Hearing dates, in advance, to the Convener of the Committee on Chaplains to HM Forces.
4. The Committee shall be clerked by the appropriate official within the Faith Nurture Forum. 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 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 28 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) or section 40 of the Discipline Act (Act I 2019), the Committee shall consider:
    - (i) The determination of the Presbyterial Commission, the Discipline Tribunal and/or the Judicial Commission, as the case may be.
    - (ii) Whether or not the fixed period of the suspension has been served.
    - (iii) Whether or not the information provided in accordance with section 28(1)(i) and section 28(1)(ii) provides satisfactory assurance in relation to the current good conduct of the applicant.
    - (iv) 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) or section 40 of the Discipline Act (Act I 2019), the Committee shall consider:

- (i) The determination of the Presbyterial Commission, the Discipline Tribunal and/or the Judicial Commission, as the case may be.
- (ii) Whether or not the information provided in accordance with section 28(1)(i) and section 28(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**

*Superseded: the Ministry Act (Act II 2000) was repealed when the Parish Ministry Act (Act II 2018) was enacted.*

## 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 II 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 II 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)(j)(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 II 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 II 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 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.”

#### **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 II 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 II 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 II 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 II 2017), in accordance with section 33 of that Act.”

#### **Act VIII 2010 (Deacons)**

*Add the following sentence at the end of section 8(d):*

“A Deacon who does not occupy such a parish appointment, or other qualifying post, but who is registered on the Register of Ministry in Category **R**, shall be entitled to apply for membership of Presbytery on the same basis as a Minister of Word and Sacrament holding Category **R** registration, being in terms of section 14 of Act III 2000.”

*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 II 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 II 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 II 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 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.

### **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 II 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 II 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.”

## **I ORDINATION OF MINISTERS OF WORD AND SACRAMENT AND DEACONS – CONSOLIDATING ACT (ACT I 2018)**

*Edinburgh, 19 May 2018, Session 3*

The General Assembly declare and enact as follows:–

### **Definitions**

1. (1) “Auxiliary Minister” means a person referred to as such in the Auxiliary Ministry Act (Act XIII 2003).
- (2) “Charge” shall mean a sphere of pastoral duty to which a parish minister is (i) inducted, or (ii) introduced under the arrangements set out in the Ministerial Staffing in the Presbytery of Shetland Regulations (Regs VI 2007).
- (3) “Deacon” means a person referred to as such in the Deacons Act (Act VIII 2010).
- (4) “FAPLT” means the Faith Action Programme Leadership Team.
- (5) “Minister” means 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).
- (6) “Ministers of Word and Sacrament” includes Ministers, Auxiliary Ministers and Ordained Local Ministers.
- (7) “Ordained Local Minister” means a person referred to as such in the Ordained Local Ministry Act (Act IX 2011).

### **Ordination of Ministers of Word and Sacrament and Deacons**

2. (1) Authority to ordain persons as (i) Ministers of Word and Sacrament or (ii) Deacons, is vested in Presbyteries.
- (2) Ordination is normally conferred on (i) the holder of an Exit Certificate or of a Graduate Candidate’s Certificate in terms of either Act X 2004 or Act IX 2011, or (ii) an individual who has satisfactorily completed a prescribed course of training for the Diaconate and who is recommended for ordination by the FAPLT, all in accordance with the Deacons Act (Act VIII 2010).
- (3) Ordination of a person described in section 2(2) may occur in any of the following situations:
  - (i) in connection with induction by the Presbytery to a Charge,
  - (ii) in connection with introduction as an associate minister in a Charge,
  - (iii) in connection with introduction as an assistant minister in a Charge,
  - (iv) in connection with introduction as an Ordained Local Minister to a designated appointment,
  - (v) in connection with introduction as a Deacon to a post in terms of section 11 of Act VIII 2010,
  - (vi) in relation to an appointment, the duties of which, in the judgement of the Presbytery, should be undertaken by an ordained Minister,
  - (vii) in connection with introduction as a Chaplain to H.M. Forces,

- (viii) in connection with introduction as a professor or lecturer to a chair or lectureship in an accredited institution (as defined in section 1(k) of Act X 2004, ordination being by the Presbytery in which the institution is located,
  - (ix) in connection with an overseas appointment made by, or with the approval of, the FAPLT, 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
  - (x) in connection with introduction as a Minister to a congregation of deaf people in terms of the Ministries for Deaf Congregations (Act VI 2023).
- (4) Where an induction or introduction is to a parochial appointment, an edict shall be read as required by the Vacancy Procedure Act (Act VIII 2003). Otherwise public notice of the intention to ordain shall be given, normally at a Presbytery meeting for ordinary business.

### **Conduct of Ordinations**

3. All services of ordination shall include the reading of the Preamble, the taking of the ordination vows and the signing of the Formula as prescribed in the Basis and Plan of Union.
4. The ordination of a Minister of Word and Sacrament shall be led by a Minister of Word and Sacrament who shall, if the Moderator of the Presbytery be not a Minister of Word and Sacrament, be appointed by the Presbytery from among its members who are Ministers of Word and Sacrament.
5. The ordination of a Deacon shall be led by a Minister of Word and Sacrament or Deacon who shall, if the Moderator of the Presbytery be an elder, be appointed by the Presbytery from among its members who are Ministers of Word and Sacrament or Deacons.

### **Laying-on of Hands in Ordinations**

6. At the ordination of a Minister of Word and Sacrament or a Deacon, all Ministers of Word and Sacrament, Deacons and elders who are members of the ordaining Presbytery are eligible, with others who may be associated with the Presbytery, to take part in the laying-on of hands. Without prejudice to this general eligibility, the Presbytery may, in the interests of good order, determine which of these shall do so at any particular ordination.

### **Extract Minute**

7. Following an ordination, the Presbytery Clerk shall send an extract minute to the Head of the Faith Nurture Forum.

### **Commencement, Amendments and Repeals**

8. (1) This Act shall come into force on 19 May 2018.
- (2) Act II 2000 (Ministry), Act III 2004 (Presbytery Ordinations) and Act VII 2010 (Ordination of Professors and Lecturers) shall be repealed on that date.

## **II PARISH MINISTRY ACT (ACT II 2018) (AS AMENDED BY ACTS VI AND XII 2022)** *Edinburgh, 19 May 2018, Session 3*

The General Assembly declare and enact as follows:–

### **Definitions**

1. (1) “Charge” means a sphere of pastoral duty to which a Parish Minister is (i) inducted or (ii) introduced under the arrangements set out in the Ministerial Staffing in the Presbytery of Shetland Regulations (Regs VI 2007).
- (2) “Minister of Word and Sacrament” shall apply to (i) a minister ordained in the Church of Scotland in terms of the Ordination of Ministers of Word and Sacrament and Deacons Act, or (ii) a minister ordained in another church who has been admitted to the Church of Scotland as a Minister of Word and Sacrament by the General Assembly, or (iii) a minister who has been inducted or introduced to a Charge or appointed to a position or office in the Church of Scotland in accordance with a mutual eligibility agreement, or by virtue of holding a Certificate of Eligibility obtained from the Faith Nurture Forum or its Executive.
- (3) “Parish Minister” means a Minister of Word and Sacrament (i) inducted by a Presbytery to a Charge or (ii) introduced to a Charge under the arrangements set out in the Ministerial Staffing in the Presbytery of Shetland Regulations (Regs VI 2007).

### **Interim Ministers and Transition Ministers**

2. Interim Ministers and Transition Ministers are employed ministers introduced to a Charge for a specific reason and for a specific time. Such ministers will not be inducted to the Charge, which will remain technically vacant in terms of the Vacancy Procedure Act (Act VIII 2003) but they will become Interim Moderator of the Kirk Session(s). The provisions of this Act apply to such Ministers insofar as they are Interim Moderator of the Kirk Session(s).

### **Interim Moderators**

3. (1) For the purposes of this Act an Interim Moderator, if a Minister of Word and Sacrament, shall have the privileges and duties of a Parish Minister, consistent with section 7 of Act VIII 2003. For the avoidance of doubt, this provision applies to Interim Ministers and Transition Ministers.
- (2) For the avoidance of doubt, where an elder is serving as Interim Moderator, his/her role shall not extend to performing the functions of parish ministry as stated in section 5 of this Act.

### **Intrusion**

4. 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 a 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 Charge, 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, or
- (5) where a Minister of Word and Sacrament who is an Authorised Celebrant in terms of the Solemnisation of Same Sex Marriage Act (Act VI 2022), enters the bounds of the Charge of an existing Parish Minister who is not such an Authorised Celebrant, to solemnise a same sex marriage.

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.

*[For the purposes of the conduct of marriages, this section shall apply to Deacons, see Act VIII 2010, section 12.]*

### **Functions of Parish Minister**

5. The ministry of the Word, the conduct of public worship, the dispensing of the Sacraments, and the instruction of the young belong to the Parish Minister, subject to the control and direction of the Presbytery.

### **Conduct of Public Worship**

6. Responsibility for the conduct of public worship includes responsibility to ensure that public worship is conducted in an orderly and reverent manner by the Parish Minister, or in accordance with section 7, or by other persons under the supervision of a Minister of Word and Sacrament, being present in person.
7. For the conduct of public worship in the absence of the Parish Minister, and subject to section 9, only the following may be employed:
  - (1) Ministers of Word and Sacrament of the Church of Scotland;
  - (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 entitled to a Certificate of Eligibility, or

- (d) 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 Ordained Local Ministry, who have been duly recognised in terms of Act X 2004 or Act IX 2011;
  - (6) members of the diaconate;
  - (7) candidates for the diaconate;
  - (8) ministries development staff employed by the Faith Nurture Forum;
  - (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.
8. (1) Employment in terms of section 7 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.
  - (2) No person authorised to conduct worship in terms of subsection 7(10) shall be entitled to a fee, but shall receive reasonable expenses as determined from time to time by the Presbytery.
  9. Notwithstanding section 7 above a Parish 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 Minister shall intimate the same in writing to the Clerk of the Presbytery within fourteen days.
  10. Section 9 above may be construed to include, *inter alia*, the occasional conduct of public worship by an elder or elders of the congregation.
  11. In an emergency when, for any reason, it becomes evident at or before the time appointed for public worship that the responsibility of the Parish 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**

12. The Parish Minister has the following rights and responsibilities as regards use of church buildings:
  - (1) The place of worship and other ecclesiastical buildings connected with the Charge are at the disposal of the Parish Minister for the purposes of his or her office, subject only to the control of the Presbytery.
  - (2) The Parish 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 or charitable nature, even if they be not connected with the congregation, subject to the control of the Presbytery.
  - (3) The Parish 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. In deciding for what uses the church may be granted the sacred character of the

building shall be kept in view.

13. 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 Parish Minister, nor shall they grant the use of the buildings to others without his or her consent.
14. 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 inducted Parish Minister.
15. 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 12 to 14 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**

16. No Minister of Word and Sacrament inducted or introduced to a Charge shall apply for, accept or 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, unless such an appointment is made directly by the General Assembly.

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

17. No Parish Minister shall act as the Congregational Treasurer with respect to any of the congregations in the Charge.

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

18. (1) Subject to subsection (4), a Minister of Word and Sacrament inducted or introduced to a Charge shall be inducted or introduced until the date of his or her seventy-fifth birthday, on 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) *Deleted by Act XII 2022.*
- (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 where this prevents necessary adjustment.
- (4) On application by a Parish Minister, his or her tenure may be extended for an agreed period of time according to a process set out in Regulations made by the General Assembly, dealing with Continuing Ministry beyond the age of 75. Service of an application under the Regulations shall prevent the termination of the tenure of the Parish Minister under subsection (1) until the application is determined.

#### **Repeals**



19. This Act shall come into force on 19 May 2018 and Act II 2000 shall be repealed at that date.



## **XVI SAFEGUARDING ACT (ACT XVI 2018) (AS AMENDED BY ACTS XVIII 2020 AND VII 2021)**

*Edinburgh, 22 May 2018, Session 12*

The General Assembly enact and ordain as follows:

### **Definitions**

1. In this Act, the following words shall have the following meanings:

- (1) “Applicant” means any person applying to undertake or carry out Regulated Work, whether in a paid or voluntary position.
- (2) “Charge” means a sphere of pastoral duty to which a Parish Minister is (i) inducted, or (ii) introduced under the arrangements set out in the Ministerial Staffing in the Presbytery of Shetland Regulations (Regs VI 2007).
- (3) “Children” means persons under the age of 18 years.
- (4) “Consideration for Listing” means the process at Disclosure Scotland whereby a person is being considered for listing as unsuitable for carrying out Regulated Work with Vulnerable Groups.
- (5) “Covenant of Responsibilities” means a covenant entered into between a Subject and a Safeguarding Panel on behalf of a Kirk Session(s) in the form prescribed from time to time by the Safeguarding Service.
- (6) “Data Protection Policy” means the Data Protection Policy of the Church of Scotland Central Services Committee as that policy exists from time to time.
- (7) “Data Retention Policy” means the Data Retention Policy of the Church of Scotland Central Services Committee as that policy exists from time to time.
- (8) “Decision to list” means a decision by Disclosure Scotland to place a person on any of the lists of persons barred from carrying out Regulated Work with Vulnerable Groups.
- (9) “Disclosure Scotland” means the Scottish Government executive agency which manages and delivers the PVG Scheme.
- (10) “Employing Agencies” means for the purposes of this Act, courts of the Church and Standing Committees of the General Assembly, and any other bodies so designated by the General Assembly.
- (11) “Guidance” means the Guidance published by the Safeguarding Service from time to time.
- (12) “Listed” means that a person has been placed on any of the lists of persons barred from carrying out Regulated Work with Vulnerable Groups, noting that a person may be barred from working with Children, or with Protected Adults, or from working with both Children and Protected Adults.
- (13) “Parish Minister” means a Minister of Word and Sacrament (i) inducted by a Presbytery to a Charge or (ii) introduced to a Charge under the arrangements set out in the Ministerial Staffing in the Presbytery of Shetland Regulations (Regs VI 2007).
- (14) “Protected Adults” means a person over 16 years of age, who because they receive a certain type of service, become protected. These services are likely to be provided for people affected by physical or mental illness and/or disability, who have particular needs over and above those of the general population.
- (15) “PVG Act” means the Protection of Vulnerable Groups (Scotland) Act 2007 or any subsequent modification, amendment or re-enactment thereof.
- (16) “PVG Scheme Record” means the record that a person receives when they join the PVG Scheme.

- (17) "PVG Scheme Record Update" means an update from Disclosure Scotland of information contained in a PVG Record.
- (18) "PVG Scheme" means the scheme legislated for by the PVG Act which is intended to ensure that people whose behaviour makes them unsuitable to work with Vulnerable Groups cannot undertake Regulated Work.
- (19) "Recruitment Sub-Committee" means a sub-committee of the Safeguarding Committee which meets to consider information contained in a Self Declaration Form, and/or in a PVG Scheme Record and/or to consider any notifications from Disclosure Scotland and/or any other matters related thereto.
- (20) "Registered Sex Offender" means a person who is required to register with the Police in terms of the Sexual Offences Act 2003 or any subsequent modification, amendment or re-enactment thereof.
- (21) "Regulated Work" has the meaning given to it in the PVG Act and can be found set out in full in a Schedule to the Guidance.
- (22) "Responsible Authorities" means the Police, Local Authorities, Health Boards, Special Health Boards and the Scottish Prison Service.
- (23) "Safeguarding" includes but is not limited to (1) taking measures to protect the health, wellbeing and human rights of individuals, especially Vulnerable Groups, which allow them to live their life free from harm, abuse or neglect and (2) responding appropriately to Safeguarding Concerns.
- (24) "Safeguarding Committee" means the committee (or any successor body) appointed by the General Assembly to deal with Safeguarding matters in the Church.
- (25) "Safeguarding Concerns" means concerns about, or allegations of, harm, abuse or neglect.
- (26) "Safeguarding Coordinator" means a person appointed by the Kirk Session(s) to have responsibility for Safeguarding within a Charge.
- (27) "Safeguarding Panel" means a panel of at least three persons appointed by the Kirk Session(s) as responsible for Safeguarding in a Charge, and will always include the Safeguarding Coordinator; from time to time additional persons may be co-opted onto a Safeguarding Panel.
- (28) "Safeguarding Service" means the Church's department providing advice, support and action to Safeguarding Coordinators, Kirk Sessions, Presbyteries and others on Safeguarding matters.
- (29) "Self Declaration Form" means the form<sup>16</sup> in such terms as may be prescribed by the Safeguarding Service from time to time, which form is to be completed by an Applicant for the following purposes: providing information to the Safeguarding Service, stating information which might appear on the Applicant's PVG Scheme Record and undertaking to inform the Safeguarding Service of certain matters.
- (30) "Subject" means
- (i) Any person who has been convicted of any offence within the Sexual Offences (Scotland) Act 2009 or associated legislation (or any modification, replacement or re-enactment thereof); and/or
  - (ii) Any person who has been convicted of any other sexual offence;
  - (iii) Any person who admits to having committed a sexual offence; and/or
  - (iv) Any person who is currently or who has at any time been a Registered Sex Offender;

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<sup>16</sup> Currently Form SG3

- (v) Any person in respect of whom the Safeguarding Service receives a notification from any of the Responsible Authorities that such person poses a risk of harm.
  - (vi) Any person found responsible by a court of law or by their professional body or regulator for committing an act which has, even in part, a sexual element, whether or not that individual accepts that finding.
  - (vii) Any person, who after risk assessment by the Safeguarding Service, is believed to pose a risk of violence or sexual harm and who has contact with the Church of Scotland, its members and adherents or those individuals who use and access worship, groups and services run by or on behalf of the Church.
- (31) “Vulnerable Groups” means Children and/or Protected Adults.
- (32) “Worker” means any person undertaking Regulated Work, whether in a paid or voluntary position; for the avoidance of doubt this includes Ministers of Word and Sacrament, as defined in the Registration of Ministries Act (Act II 2017).

### **Interpretation**

2. (1) Whenever “Vulnerable Groups” are referred to in this Act, that may be a reference to either Children or Protected Adults, or to Children and Protected Adults.
- (2) The footnotes in this Act are for information only and do not form part of this Act.
- (3) The Safeguarding Service shall be entitled to amend any form referred to in this Act as it deems appropriate from time to time.

### **Safe Recruitment – Kirk Session(s)**

3. (1) Subject to subsection (6) below, the Kirk Session(s) shall ensure that all Workers within the Charge are members of the PVG Scheme, prior to taking up their post. This shall include Locums.
- (2) Subject to subsection (6) below, whenever a person is being recruited and will be undertaking Regulated Work, that person must make application to become a member of the PVG Scheme. If the person is already a member of the PVG Scheme, an Existing PVG Scheme Member Application must be completed and submitted. No person may be employed or appointed to undertake or to carry out Regulated Work unless that person is a member of the PVG Scheme.
- (3) The Kirk Session(s) shall appoint a Safeguarding Coordinator. The Safeguarding Coordinator shall have the task of ensuring that all PVG applications required for that Charge are completed accurately and submitted to the Safeguarding Service for processing. The Safeguarding Coordinator shall monitor the return of the applications and their outcome.
- (4) Subject to subsection (6) below, if any application results in notification that a person is barred from becoming a member of the PVG Scheme, ie is Listed, that person must not be employed or appointed to undertake or to carry out Regulated Work. It is an offence under the PVG Act to employ or appoint a person who is Listed to undertake or to carry out Regulated Work.
- (5) In arranging recruitment, the Kirk Session(s) must comply with the Guidance.

- (6) In addition, in the case of a person who is domiciled outwith the UK, such further information must be provided and such further checks must be undertaken, both as the Safeguarding Service may require, before that person may be employed or appointed to undertake or to carry out Regulated Work.
- (7) In addition Kirk Sessions must conduct Basic Disclosure Checks on all individuals (regardless of their employment status) in (or working with) their congregations in leadership roles and/or positions of trust, including but not limited to organists, church officers/caretakers and cafe workers, where their duties may involve contact with Vulnerable Groups.

#### **Safe Recruitment – Presbyteries and other Employing Agencies**

4. (1) Subject to subsection (5) below, Presbyteries and other Employing Agencies shall ensure that all Workers are members of the PVG Scheme, prior to taking up their post. This shall include Interim Moderators.
- (2) Subject to subsection (5) below, whenever a person is being recruited and will be undertaking Regulated Work, that person must make application to become a member of the PVG Scheme. If the person is already a member of the PVG Scheme, an Existing PVG Scheme Member Application must be completed and submitted. No person may be employed or appointed to undertake or to carry out Regulated Work unless that person is a member of the PVG Scheme.
- (3) Subject to subsection (5) below, if any application results in notification that a person is barred from becoming a member of the PVG Scheme, ie is Listed, that person must not be employed or appointed to undertake or to carry out Regulated Work. It is an offence under the PVG Act to employ or appoint a person who is Listed to undertake or to carry out Regulated Work.
- (4) In arranging recruitment, Presbyteries and other Employing Agencies must comply with the Guidance.
- (5) In addition, in the case of a person who is domiciled outwith the UK, such further information must be provided and such further checks must be undertaken, both as the Safeguarding Service may require, before that person may be employed or appointed to undertake or to carry out Regulated Work.

#### **Recruitment Sub-Committee**

5. (1) At its meetings, the Recruitment Sub-Committee shall deal with the risk assessment of the following:
  - (i) Any vetting information which has been provided to the Safeguarding Service by Disclosure Scotland.
  - (ii) Any notification received by the Safeguarding Service from Disclosure Scotland, including a notification that a person is under Consideration for Listing.

- (iii) Self Declaration Forms, references, matters of reputational risk and any other pertinent information.
- (2) The Recruitment Sub-Committee may decide (one or more of the following):
- (a) *In relation to safe recruitment:*
    - (i) To recommend that a person is suitable for Regulated Work (which recommendation may or may not be made subject to conditions).
    - (ii) To recommend that a person is not suitable for Regulated Work.
  - (b) *In relation to a notification from Disclosure Scotland:*
    - (i) To take no action.
    - (ii) To impose a precautionary administrative suspension, to be reviewed by the Sub-Committee on a three monthly rolling basis.
    - (iii) To take no immediate action but to reconsider the matter at a further meeting on a date within the next three months.
    - (iv) To recommend that a person is not suitable for Regulated Work.
- (3) Decisions of the Recruitment Sub-Committee shall be notified to the person involved, to the relevant Safeguarding Coordinator and to any other person who has a legitimate interest. Notification shall include a statement of the reasons for the decision.
- (4) Subject always to any appeal in terms of section 6 below, where the Recruitment Sub-Committee makes a decision in terms of section 5(2)(a)(ii) or 5(2)(b)(iv), no Employing Agency shall employ or appoint that person to undertake or to carry out Regulated Work, nor may such person be appointed as a Minister of Word and Sacrament, as defined in the Registration of Ministries Act (Act II 2017).

#### **Appeals from decisions of the Recruitment Sub-Committee**

6. (1) A person in respect of whom a decision has been made in terms of section 5(2)(a)(ii) or 5(2)(b)(iv) as to suitability for Regulated Work has the right to appeal that decision. A person may also appeal against the terms of any conditions applied by the Recruitment Sub-Committee in terms of section 5(2)(a)(i) as to a person's suitability for Regulated Work. Such a person is referred to in section 7 as "the Appellant".
- (2) An appeal can be brought only on one or more of the following grounds:
- (a) that there were irregularities in the process whereby the Recruitment Sub-Committee reached its decision
  - (b) that the final decision of the Recruitment Sub-Committee was influenced by incorrect material fact (subject however to the exception noted below in regard to the contents or accuracy of the PVG Scheme Record), or
  - (c) that the Recruitment Sub-Committee in reaching its decision acted contrary to the principles of natural justice.

- (3) Any disagreement as to the contents or accuracy of the PVG Scheme Record information itself cannot be the subject of an appeal under this procedure and will require to be taken up by the person direct with Disclosure Scotland through the procedures established by that body.

### **Process for Appeal**

7. The appeal shall proceed as follows:
  - (1) The intention to appeal must be intimated to the Principal Clerk by the Appellant within fourteen days of the date of issue of the relevant decision.
  - (2) Within a further twenty eight days after the date upon which the intention to appeal was intimated in terms of section 7(1), the Appellant shall lodge with the Principal Clerk a note setting out in writing in brief numbered propositions, the grounds referred to in section 6(2) above upon which he or she is appealing (“the Grounds of Appeal”).
  - (3) Upon receipt of the Appellant’s Grounds of Appeal, the Principal Clerk shall require that within twenty eight days, the Recruitment Sub-Committee lodge a note responding to the Grounds of Appeal.
  - (4) The appeal will be determined by an Appeal Group comprising three persons selected by the Principal Clerk from the Safeguarding Appeal Panel. The Safeguarding Appeal Panel shall be a Panel of six persons appointed by the General Assembly, being persons with Safeguarding and other relevant experience, and shall include at least two persons who shall be qualified to practise as lawyers or who are experienced in the law and practice of the Church, and at least two ministers. Having due regard to the need to ensure independent scrutiny of any appeal, none of the Panel shall be current or former employees of any of the Employing Agencies nor shall they be current members of the Safeguarding Committee.
  - (5) The Appeal Group will be chaired by a person who is either qualified to practise as a lawyer or who is experienced in the law and practice of the Church. The Appeal Group shall include at least one minister. The Appeal Group will be clerked by the Principal Clerk or the Depute Clerk.
  - (6) The Appeal Group shall be entitled to require both the Appellant and the Recruitment Sub-Committee to provide further information and may determine the appeal either on the basis of written submissions only and/or by holding a hearing. If a hearing is held, procedure shall be in accordance with the Standing Orders of the General Assembly so far as applicable and consistent with this Act.
  - (7) The Appellant will be notified of the Appeal Group’s decision in writing within six weeks of the written submissions being received by the Principal Clerk or of the hearing date, whichever is later.
  - (8) The Appeal Group will also notify the Safeguarding Service and the Recruitment Sub-Committee of its decision. The Safeguarding Service will take any necessary action, in accordance with the Appeal Group’s decision.
  - (9) The decision of the Appeal Group will be final.



### **Training**

8. (1) Each Presbytery shall provide appropriate training on Safeguarding matters to Kirk Sessions, Safeguarding Coordinators and Workers, with updates when appropriate.
- (2) Kirk Sessions will maintain records of all training undertaken by Kirk Sessions, Safeguarding Coordinators and Workers and will disclose these records at any time upon request by the Safeguarding Service or the Presbytery.
- (3) All Kirk Sessions, Safeguarding Coordinators and Workers must undertake such training as is prescribed by the Safeguarding Service from time to time.

### **Record retention**

9. (1) The Safeguarding Panel will maintain records of Workers within the Charge who are PVG Scheme members in the form of the Safeguarding Congregational Register<sup>17</sup>.
- (2) All hard copy records of the Safeguarding Panel shall be kept confidentially in a secure place.
- (3) In accordance with the Data Protection Policy and the Data Retention Policy, the Safeguarding Service will retain originals of the Self Declaration Forms which are signed by all Applicants either (1) to join the PVG Scheme or (2) for an Existing PVG Scheme Member Application. Documents shall be destroyed only in accordance with the Data Retention Policy.

### **Presbyteries' Responsibilities of Superintendence**

10. Presbyteries shall confirm that Kirk Sessions are complying with their obligations under this Act: (1) during Annual Inspections of Records, and (2) as part of Local Church Review, and shall report to the Safeguarding Service in such form as the Safeguarding Service may prescribe from time to time.

### **Audit**

11. Kirk Sessions and Presbyteries shall review and minute on an annual basis their compliance with Safeguarding policies and procedures using the Safeguarding Audit Checklist for Kirk Sessions and Presbyteries<sup>18</sup>.

### **Annual Inspection of Records**

12. Kirk Sessions shall electronically submit the Safeguarding Congregational Register<sup>19</sup> and the Safeguarding Audit Checklist for Kirk Sessions and Presbyteries<sup>20</sup> annually to Presbytery as part of the Annual Inspection of Records.

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<sup>17</sup> Currently Form SG7

<sup>18</sup> Currently Form SG11

<sup>19</sup> Currently Form SG7

<sup>20</sup> Currently Form SG11

13. Presbyteries must forward electronically the Safeguarding Congregational Register and the Safeguarding Audit Checklist to the Safeguarding Service on conclusion of their annual inspection of records.
14. Presbyteries must hold a Presbytery Safeguarding Register and must forward this electronically to the Safeguarding Service on conclusion of their annual inspection of records.

#### **Obligations on individuals**

15. (1) All PVG Scheme members shall advise Disclosure Scotland and the Safeguarding Service promptly of any changes to their personal details.
- (2) All PVG Scheme members shall advise Disclosure Scotland and the Safeguarding Service promptly if they cease doing Regulated Work for the Church of Scotland.
- (3) All PVG Scheme members must advise the Safeguarding Service promptly of (i) any act, default or omission, or (ii) any circumstances arising, which might affect whether they can undertake Regulated Work.
- (4) All persons who sign Self Declaration Forms must adhere to the undertakings given therein.

#### **Workers – Safeguarding Concerns**

16. (1) Every Charge must have a Safeguarding Panel.
- (2) If any Safeguarding Concerns arise regarding Workers, such Safeguarding Concerns shall be reported without delay by the Safeguarding Coordinator to the Safeguarding Panel and to the Safeguarding Service. The Safeguarding Service shall where appropriate report the matter to Disclosure Scotland.
- (3) All Fora, Councils, Committees, Presbyteries and Safeguarding Coordinators have a general responsibility promptly to report any Safeguarding Concerns to the Safeguarding Service.
- (1) Advice given by the Safeguarding Service, when framed as an instruction, must be followed by all Employing Agencies and by all Presbyteries, Kirk Sessions, Safeguarding Co-ordinators, office-holders, staff and volunteers involved in work with Vulnerable Groups.
- (2) Fora, Councils, Committees, Presbyteries and Safeguarding Coordinators must report promptly to the Safeguarding Service on action taken after advice from the Service has been given in relation to reports of Safeguarding Concerns.

#### **Safeguarding in the Presbyteries of England, International Charges and Jerusalem**

17. Kirk Sessions in the Presbyteries of England, International Charges and Jerusalem will follow the recommendations and advice of the Safeguarding Service.

### **Overseas work**

18. (1) Any Church body or agency which sends Workers abroad must ensure that such persons are members of the PVG Scheme, and Kirk Sessions must ensure that any individuals who host Vulnerable Groups from abroad are safely recruited.
- (2) Fora, Councils and Committees must have clear Safeguarding protocols, approved by the Safeguarding Service, in place for overseas work.

### **Other services provided by Safeguarding Service**

19. The Safeguarding Service may from time to time with the approval of the Assembly Trustees enter into arrangements with other churches, agencies and groups as to the provision of Safeguarding services to them.

### **Management of Subjects (Covenants of Responsibilities)**

20. (1) Whenever a Subject wishes to be involved in the life of a congregation, then the following shall apply:
  - (i) the Safeguarding Coordinator shall inform the Safeguarding Service (in turn, the Safeguarding Service shall inform the Safeguarding Coordinator if such information comes to its notice);
  - (ii) a Covenant of Responsibilities shall be entered into by the Safeguarding Panel on behalf of the relevant Kirk Session(s) with the Subject.
- (2) If the Subject refuses to sign a Covenant of Responsibilities, then the Subject shall not be entitled to be involved in the life of the congregation.
- (3) The terms of the Covenant of Responsibilities shall be determined by the Safeguarding Service in consultation with the Safeguarding Panel of the relevant Kirk Session(s) and, where appropriate, the Responsible Authorities, in accordance with the Safeguarding Service's procedures from time to time. The Subject shall have no input into the drafting of the Covenant of Responsibilities, which shall not be negotiable by the Subject. The Covenant shall provide for its regular review and this shall be implemented according to the procedures from time to time of the Safeguarding Service.
- (4) A Covenant of Responsibilities is specific to a congregation and is not transferable to a different congregation. Should the Subject wish to be involved in the life of another congregation then a new Covenant of Responsibilities shall require to be entered into and the preceding provisions of this section 17 shall apply. In addition the terms of the Covenant to be entered into in respect of the new congregation may be determined in consultation with the Safeguarding Coordinator of the former congregation.

### **Consequential amendments**

21. (1) This Act shall be added to the list of Acts in the Schedule to the Alternative Dispute Resolution Processes Act (Act VI 2014), as being an Act in respect of which ADR shall not be used.
- (2) The Protection of Vulnerable Groups Act (Act VII 2011) as amended shall be repealed.

**Act to prevail**

22. From its date of passing, the terms of this Act shall prevail where those are inconsistent with any previous deliverances of the General Assembly.

**I DISCIPLINE ACT (ACT I 2019) (AS AMENDED BY ACTS XII 2020, V 2021, XI 2022 AND I 2024)**

*Edinburgh, 18 May 2019, Session 3*

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

**Part 1 DEFINITIONS, INTERPRETATION AND PRELIMINARY MATTERS**

1. For the purposes of this Act:

- (1) “Administrative Suspension” shall mean an instruction given, at any stage of proceedings in terms of this Act, by a Presbytery or any Committee or individuals holding delegated powers from Presbytery so to do, to a Respondent to abstain from the exercise of all of the functions of the office held by the Respondent until the final disposal of proceedings under this Act and “Administratively Suspended” shall be construed accordingly. For the avoidance of doubt, Administrative Suspension shall not constitute or form a part of any form of Censure.
- (2) “Adviser” shall mean a Minister, being a member of Presbytery, selected from a list maintained by the Legal Questions Committee, who acts as an adviser to an Assessor.
- (3) “Alternative Contact” shall mean the alternative contact to the Presbytery Clerk in terms of the Complaints Procedure.
- (4) “Assessor” shall mean (i) an Elder, being a member of a Kirk Session, who is legally qualified and has knowledge of Church Law, or (ii) a solicitor employed in the Church’s Law Department, or (iii) an investigator with experience of the investigation of professional misconduct: any such person in category (i), (ii) or (iii) being appointed from a panel of Assessors in terms of section 17(2), and all Assessors being appointed to the panel by the General Assembly on the nomination of the Nomination Committee.
- (5) “Auxiliary Minister” shall have the meaning ascribed to it in the Registration of Ministries Act (Act II 2017).
- (6) “breach” shall mean material breach.
- (7) “Bullying” shall mean a course of conduct (i.e. conduct which occurs on at least two occasions) amounting to offensive, threatening, abusive, malicious, intimidating or insulting behaviour that may be an abuse or misuse of power, position or knowledge through means that undermine, humiliate, denigrate or injure the person concerned and which is behaviour occurring in circumstances where it would appear to a reasonable individual that it would amount to bullying of that person.
- (8) “Censure” shall have the meaning given to it in Part 10.
- (9) “Censure with consent” shall mean a Censure consented to by the Respondent.
- (10) “Complainer” shall mean a person, Committee or other body making a Disciplinary Complaint.
- (11) “Complaints Procedure” shall mean the complaints procedure operated by Presbyteries as initially approved by deliverance of the General Assembly of 2014 and as amended from time to time.
- (12) *Definition of “Council” deleted when the Ministries Council became the “Faith Nurture Forum”.*

- (13) "Deacon" shall have the meaning ascribed to it in the Registration of Ministries Act (Act II 2017).
- (14) "Disciplinary Complaint" shall mean (i) a written allegation or allegations that a Disciplinary Offence has been committed or (ii) circumstances coming to the attention of Presbytery which indicate that a Disciplinary Offence may have been committed.
- (15) "Disciplinary Offence" shall have the meaning assigned to it in Part 4.
- (16) "Disciplinary Proceedings" shall mean those proceedings carried out in accordance with the provisions of Part 8 in respect of any Disciplinary Offence alleged to have been committed by a Respondent.
- (17) "Discipline Tribunal" shall mean a body of three or five persons drawn from the Judicial Panel and constituted to hear Disciplinary Proceedings under this Act, more particularly described in section 7.
- (18) "Elder" shall mean a person ordained as an elder (whether or not serving on a Kirk Session, save where otherwise specified in this Act).
- (18A) "FAPLT" shall mean the Faith Action Programme Leadership Team or any Task Group or Committee of the Faith Action Programme Leadership Team.
- (19) "Graduate Candidate" shall have the meaning ascribed to it in the Selection and Training for Full-Time Ministry Act (Act X 2004).
- (20) "Harassment" shall mean unwanted physical, verbal or non-verbal conduct related to a Protected Characteristic which has the purpose or effect of violating the dignity of another person or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person, declaring that in deciding whether conduct has that effect, there shall be taken into account the perception of that person, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.
- (21) "Investigatory Proceedings" shall mean those proceedings carried out in accordance with the provisions of Part 7 in respect of any Disciplinary Offence alleged to have been committed by a Respondent.
- (22) "Judicial Commission" means the Judicial Commission as defined in the Appeals Act (Act I 2014).
- (23) "Judicial Panel" shall mean the pool of persons from which shall be appointed (a) a Reviewer, and (b) the members to serve on the Discipline Tribunal and the Judicial Commission.
- (24) "Judicial Suspension" shall mean any suspension imposed as a Censure in terms of Part 10.
- (25) "Legal Aid Fund" shall mean the Fund maintained by the Legal Questions Committee in terms of the Legal Aid in Disciplinary Proceedings Regulations (Regulations I 2018).
- (26) "Licentiate" shall have the meaning ascribed to it in the Candidates, Licentiates and Probationers Act (Act XI 1994).
- (27) "Minister" and "Minister of Word and Sacrament" shall have the meanings respectively ascribed to them in the Registration of Ministries Act 2017 (Act II 2017).
- (28) "Office-Bearer" shall, for the purposes of this Act only, mean an individual who is serving on a Congregational Board, Deacons' Court or Board of Management, or any other body deemed by the Presbytery to form part of the governance arrangements of any congregation, or on any committee of any of these bodies or of a Kirk Session or Presbytery, and shall, for the avoidance of doubt, include all

- Clerks and Treasurers, whether or not such individuals are serving as voting members of any such governing body.
- (29) "Ordained Local Minister" shall have the meaning ascribed to it in the Registration of Ministries Act (Act II 2017).
  - (30) "Procedural Review" shall mean a procedural review carried out by a Reviewer in terms of sections 19(3), 22(2) or 27.
  - (31) "Protected Characteristic" shall mean any of the following:
    - Age
    - Disability
    - Gender re-assignment
    - Race
    - Religion or belief
    - Sex
    - Sexual orientation
  - (32) "Reader" shall have the meaning ascribed to it in the Readership Act (Act XVII 1992).
  - (33) "Referral" shall mean the referral by a Presbytery of a Disciplinary Complaint to an Assessor in terms of Part 5.
  - (34) "Register of Ministry" shall mean the Register referred to in section 2 of the Registration of Ministries Act (Act II 2017).
  - (35) "Respondent" shall mean a person referred to in section 10 against whom a Disciplinary Complaint has been made or has arisen.
  - (36) "Reviewer" shall mean a person selected from the Judicial Panel and appointed by the Convener or Vice-Convener of the Legal Questions Committee to carry out a Procedural Review.
  - (37) "Victimisation" shall mean subjecting another person to a detriment because that person has brought a Disciplinary Complaint under this Act, given evidence or information in connection with proceedings under this Act, or done any other thing for the purposes of or in connection with this Act, unless that person acted in bad faith in so doing.
2. For the purposes of this Act (a) the singular shall include the plural unless the contrary intention appears; (b) any reference to a "section" or a "Part" shall be to a section or Part of this Act, (c) any reference to "days" in relation to periods of time or time limits shall be to consecutive calendar days, (d) any reference to an Act of the UK or Scottish Parliament shall include a reference to any subsequent modification, replacement or re-enactment thereof; and (e) any reference to a Certificate of Eligibility shall include a Temporary Certificate of Eligibility and a Restricted Certificate of Eligibility.
  3. Meetings of the Assessor and the Adviser or of the Discipline Tribunal may be held by conference telephone call, video conference or the like electronic means and proceedings at any meeting held by such means shall be as valid as if the Assessor and Adviser or the members of such Tribunal and any other parties, recorded as attending such meeting, had all been physically present, in person, at a single geographic location.
  4. No Assessor, Adviser or Reviewer shall:
    - (1) take part in any proceedings involving the Presbytery of which they are a member or in which the Kirk Session of which they are a member is situated; or

- (2) be appointed to the Discipline Tribunal or a Judicial Commission in any single case or series of related cases in which they have acted as Assessor, Adviser or Reviewer, which proceeds against any Respondent in terms of this Act.
5. The rules of civil evidence in Scots Law shall apply to the conduct of any proceedings governed by this Act and the standard of proof required shall be the balance of probabilities. Where the Disciplinary Complaint is the same as, or substantially similar to, any charge brought against the Respondent in criminal law and the Respondent is proved to have been convicted of the offence in criminal law, by or before any court in the United Kingdom, then the Respondent shall be taken to have committed that offence, unless the contrary is proved. Where the decision of any court or tribunal in the United Kingdom is relevant to any Charges in the Disciplinary Complaint, that decision will be admissible in evidence, and be held to have established any issue in the Disciplinary Proceedings in respect of which the decision is relevant, unless the contrary is proved.
6.
  - (1) The Assessor may sist proceedings under this Act at any time, in whole or in part, in any of the following situations: (i) pending the outcome of any civil or criminal proceedings or relevant investigations which relate to the Complaint, (ii) due to the ill-health of the Respondent or of a material witness which, in the opinion of the Assessor, having taken such professional advice or considered such evidence as they consider appropriate, prevents the Respondent or material witness from taking part in such proceedings; or (iii) for any other reason which the Assessor deems appropriate.
  - (2) Once a sist has been imposed, it shall be presumed to continue until such time as the circumstances leading to its imposition no longer pertain, but the appropriateness of the sist continuing shall be subject to review, upon request by the Respondent, at three-monthly intervals from the date of its imposition. Each such review shall be undertaken and decided upon by the Convener, whom failing the Vice-Convener, of the Legal Questions Committee, who shall have power to lift the sist upon cause shown by the Respondent. In making a decision, the Convener or Vice-Convener of the Legal Questions Committee shall first consult with the Solicitor of the Church and the Principal Clerk.
7. The Discipline Tribunal shall be variously constituted as follows:
  - (1) In the circumstances of a matter proceeding under Part 8 (*Disciplinary Proceedings*), it shall mean a body of up to five persons, of whom at least one is a Minister or Deacon and one is an Elder, three persons being selected from the Judicial Panel together with a Convener and a Vice-Convener appointed in terms of section 16 of the Appeals Act (Act I 2014). In this case the quorum of the Tribunal shall be three persons, one of whom must be the Convener, or
  - (2) In the circumstances of a matter proceeding under Part 9 (*Accelerated Procedure*) it shall mean a body of up to three persons, comprising one Minister and one Elder selected from the Judicial Panel, together with a Convener appointed in terms of section 16 of the Appeals Act (Act I 2014). In this case the quorum of the Tribunal shall be two persons, one of whom must be the Convener.



The Solicitor of the Church shall normally serve as Secretary to the Discipline Tribunal but may appoint a Depute to act in his or her place in any particular case. The Secretary shall not be a member of the Discipline Tribunal.

8. Where an Assessor becomes unable to continue with consideration of and/or investigation of and/or disciplinary proceedings in respect of a Disciplinary Complaint, then a new Assessor shall be appointed and the consideration and/or investigation and/or disciplinary proceedings shall continue, subject to all time limits which apply being recalculated to start again as if the Referral had been made on the date on which the new Assessor is appointed.
9. When, in the course of proceedings under the Local Church Review Act (Act I 2011) or the Congregations in an Unsatisfactory State Act (Act I 1988), the Presbytery receives a Disciplinary Complaint indicating that a Disciplinary Offence may have been committed by a Respondent, it may proceed in one of the following ways: (i) it may proceed simultaneously in terms of this Act, or (ii) it may resolve to initiate proceedings under this Act following the completion of the existing proceedings, or (iii) it may resolve to sist the existing proceedings and initiate proceedings under this Act.

## **Part 2 THOSE SUBJECT TO DISCIPLINE IN TERMS OF THIS ACT**

10. The following shall be subject to discipline in terms of this Act:
  - (1) Ministers of Word and Sacrament;
  - (2) Licentiates;
  - (3) Graduate Candidates;
  - (4) Deacons;
  - (5) Readers;
  - (6) Candidates and Probationers in training for the Ministry of Word and Sacrament and Diaconate as referred to in the Selection and Training for Full-Time Ministry Act (Act X 2004), the Deacons Act (Act VIII 2010) and the Ordained Local Ministry Act (Act IX 2011);
  - (7) Candidates in training for the Readership as referred to in the Readership Act (Act XVII 1992);
  - (8) Elders;
  - (9) Office-Bearers;
  - (10) Persons holding Certificates of Eligibility issued under the Admission and Re-admission of Ministers Act (Act IX 2002).

## **Part 3 JURISDICTION**

11. It is declared that any proceedings under this Act are part of the exclusive jurisdiction of the Church and in accordance with the Articles Declaratory of the Constitution of the Church of Scotland in Matters Spiritual, as hereby interpreted by the Church.
12. Where an individual against whom an allegation made in terms of this Act is an employee of any congregation or any Court or Committee of the Church, nothing in this Act shall prejudice the application of civil employment law.

13. For the avoidance of doubt, it is declared that nothing in this Act shall reduce the general power of Presbytery to impose an Administrative Suspension on any individual subject to its jurisdiction in terms of this Act, at any time.
14.
  - (1) Proceedings under this Act shall be initiated by the Presbytery having jurisdiction in terms of this section.
  - (2) Ministers of Word and Sacrament and Deacons shall be subject to the jurisdiction of the Presbytery with which they are registered on the Register of Ministry created by the Registration of Ministry Act (Act II 2017).
  - (3) Licentiates shall be subject to the jurisdiction of the Presbytery within the bounds of which is the congregation of which they are a member, which failing, the Presbytery of Edinburgh and West Lothian.
  - (4) Candidates and Probationers in training for the Ministry of Word and Sacrament and Diaconate shall be subject to the jurisdiction of the Presbytery which is supervising them, in terms of sections 18 and 19 of the Selection and Training for Full-Time Ministry Act (Act X 2004) (in the case of the Diaconate, as applied by section 3 of the Deacons Act (Act VIII 2010)), and sections 13 and 14 of the Ordained Local Ministry Act (Act IX 2011).
  - (5) Candidates in training for the Readership shall be subject to the jurisdiction of the Presbytery which appoints the regent referred to in section 2(e) of the Readership Act (Act XVII 1992).
  - (6) Graduate Candidates shall be subject to the jurisdiction of the Presbytery which issued their Graduate Candidate's Certificate in terms of section 22 of the Selection and Training for Full-Time Ministry Act (Act X 2004).
  - (7) Elders and Office-Bearers shall be subject to the jurisdiction of the Presbytery within the bounds of which is the congregation of which they are a member or in which they serve as an Office-Bearer.
  - (8) Readers shall be subject to the jurisdiction of the Presbytery upon the Roll of which they appear.
  - (9) Persons holding Certificates of Eligibility issued under the Admission and Re-admission of Ministers Act (Act IX 2002) shall be subject to the jurisdiction of the Presbytery within the bounds of which they normally reside, which failing, the Presbytery of Edinburgh and West Lothian.
15. Should a Disciplinary Complaint come to the notice of a Presbytery other than that having jurisdiction in terms of this Part 3, it shall communicate the same to the Presbytery having jurisdiction, together with all information pertaining thereto in its possession.

#### **Part 4 DISCIPLINARY OFFENCES**

16. "Disciplinary Offence" shall mean:

- (1) conduct which is declared censurable by the Word of God;
- (2) a breach of an Act, Regulation or Instruction of the General Assembly;
- (3) a breach of an established custom of the Church;
- (4) a breach of an order or instruction of any court of the Church;
- (5) a breach of a Respondent's vows of ordination;
- (6) a refusal to accept, or an attempt to subvert, the authority of any court of the Church or Committee;
- (7) conduct unbecoming the office held by the Respondent in the Church or likely to reflect adversely on the Church or bring its name into disrepute;
- (8) conduct which is not in conformity with the law or practice of the Church and which constitutes direct or indirect discrimination in terms of the Equality Act 2010;
- (9) Harassment or Victimisation as defined in sections 1(20) and 1(37) respectively;
- (10) dishonest or deceitful behaviour;
- (11) Bullying;
- (12) conduct which results in the placing of the name of a Respondent on the Sex Offenders' Register or the Respondent's inclusion on the Children's List and/or the Adults' List kept under section 1(1) of the Protection of Vulnerable Groups (Scotland) Act 2007;
- (13) failure by an individual to advise the Church's Safeguarding Service of (a) any act, default or omission, or (b) any circumstances arising, bearing upon that individual's suitability to undertake Regulated Work as defined in the Protection of Vulnerable Groups (Scotland) Act 2007;
- (14) other than as permitted in terms of this Act, the issuing by any person subject to this Act of any form of statement about, or details concerning, the alleged Disciplinary Offence, or participating in any interview or discussion with the media or publishing any material on social media regarding an alleged Disciplinary Offence, in all cases after the Presbytery receives notice of an alleged Disciplinary Offence and until the conclusion of any Disciplinary Proceedings and any appeals relating thereto; and
- (15) disobedience of an Instruction issued under section 40.

## **Part 5 REFERRAL**

17. (1) Whenever a Disciplinary Complaint comes to the notice of the Presbytery, it shall be considered by the Presbytery Clerk (or the Alternative Contact), whom failing, any member of Presbytery holding delegated powers from Presbytery to act for the Presbytery in respect of the Complaints Procedure or otherwise holding delegated powers from Presbytery to deal with matters of discipline.
- (2) If, following consideration in terms of section 17(1), it is decided that the Disciplinary Complaint should be considered under this Act, the Presbytery shall appoint an Assessor and shall refer the consideration of such Disciplinary Complaint to such Assessor. Before making a decision that the Disciplinary Complaint should not be considered under this Act, the Presbytery Clerk shall seek the advice of the Principal Clerk.

- (3) Consideration shall also be given at this stage as to whether or not an Administrative Suspension should be imposed on the Respondent in terms of Part 6.
- (4) Where there is a Complainer, the Presbytery Clerk shall send written acknowledgement of the Disciplinary Complaint to the Complainer within seven (7) days of its receipt.
- (5) Once a Referral has been made, the following restrictions shall apply to a Respondent (with the exception of those Respondents referred to in section 10(8) or 10(9)) until such time as proceedings under this Act are finally disposed of:
  - (a) the Respondent shall not be entitled to demit his or her status or to resign from a Church appointment; a Minister of Word and Sacrament or a Deacon shall be permitted to demit his or her charge or to resign from a Church appointment, but if he or she does so, he or she shall remain under the jurisdiction of the Presbytery until proceedings under this Act are finally disposed of; and
  - (b) the FAPLT may not issue an extract of the Respondent's entry in the Register of Ministry if he or she seeks to leave the jurisdiction of the Presbytery.
- (6) The Presbytery Clerk shall write to the Respondent to confirm that a Disciplinary Complaint has been received, advising as to its general nature and confirming that a Referral has been made and in addition, shall confirm the matters referred to in sub-paragraphs (a) and (b) above of subsection (5). The Presbytery Clerk shall, at the same time, send to the Respondent copies of (a) this Act and (b) the Guidance for Respondents prepared in terms of Part 16 and shall notify the Head of the Faith Action Programme in writing that the Referral has been made (save where the Respondent is one referred to in section 10(8) or 10(9)).
- (7) Notwithstanding subsection (5) above, a Respondent may, provided that no appeal is being taken to the Judicial Commission and provided also that the procedure set out in section 33 of Act VIII 2003 is followed, demit status at any time after the Discipline Tribunal issues a decision on Censure in the Respondent's case.
- (8) At the same time as appointing the Assessor, the Presbytery shall make suitable arrangements for the provision of pastoral support for (i) the Respondent and his or her family, (ii) any Complainer(s), (iii) any witnesses in respect of the Disciplinary Complaint residing within the bounds of the Presbytery, (iv) the congregation and (v) any Office-Bearers involved in the Disciplinary Complaint. The Presbytery may call upon a neighbouring Presbytery and/or the Head of the Faith Action Programme to assist in the provision of pastoral support. The Presbytery Clerk shall make a written report on the arrangements, so made, to the Assessor, when appointed.
- (9) In the Assessor's report to the Presbytery in terms of section 19(1), the Assessor shall comment on the arrangements for pastoral support made by the Presbytery

in terms of section 17(8), providing an assessment as to their adequacy and may raise any inadequacy with Presbytery during the course of his or her consideration of the Referral and may make suggestions as to how such inadequacy could be rectified.

- (10) Except insofar as provided herein, once an Assessor has been appointed, the Presbytery shall have no further part in the proceedings.
- 18.
- (1) The Presbytery shall also appoint an Adviser to work with the Assessor on the Disciplinary Complaint. The Adviser shall provide support to the Assessor and may be present at any interview conducted by the Assessor. Before taking any decisions under this Act, the Assessor shall consult with the Adviser.
  - (2) The Assessor will consider the Disciplinary Complaint and, if necessary, obtain any additional information, to allow the Assessor to decide whether the Disciplinary Complaint falls into one or more of the following categories:
    - (a) it is in a form which cannot sensibly be responded to, or
    - (b) it is otherwise an abuse of process, or
    - (c) it is frivolous or vexatious, or
    - (d) it has no reasonable prospect of providing grounds for disciplinary action in terms of this Act, or
    - (e) it would be more appropriately dealt with by the Presbytery under the Complaints Procedure, or
    - (f) it is suitable to be dealt with in terms of the Alternative Dispute Resolution Processes Act 2014 (Act VI 2014) or otherwise by mediation, conciliation or facilitated conversation or similar processes, or
    - (g) the Presbytery has no jurisdiction to consider the Disciplinary Complaint, or
    - (h) it cannot be pursued because a Complainer is not willing to be identified to the Respondent, or is not willing to disclose a document to the Respondent and there is no other evidence supporting the Disciplinary Complaint.
- 19.
- (1) Within thirty five (35) days of the receipt of the Referral by the Assessor, he or she shall decide whether the Disciplinary Complaint satisfies any of the criteria set out in section 18(2). The Assessor shall confirm this in a report sent to the Presbytery, the Complainer (if any) and the Respondent. Where the Assessor decides that the Disciplinary Complaint satisfies any of the criteria set out in section 18(2), he or she shall also state whether the Disciplinary Complaint should be considered by Presbytery in terms of the Complaints Procedure. When the Assessor decides that the Disciplinary Complaint satisfies any of the criteria set out in section 18(2) the Assessor shall, at the same time advise the Presbytery and the Complainer of their right to a Procedural Review.
  - (2) For the avoidance of doubt, a decision by the Assessor that the Disciplinary Complaint satisfies any of the criteria set out in section 18(2) shall not be subject to appeal or dissent and complaint or any other form of review, other than a Procedural Review carried out by a Reviewer.
  - (3) With respect to a Procedural Review the following will apply:

- (a) A Procedural Review must be requested by the Presbytery or the Complainer within fourteen (14) days of the date upon which the Assessor reported his or her decision to the Presbytery and the Complainer.
- (b) A Procedural Review can be sought only on one or both of the following grounds: (a) that there was an irregularity in the process followed by the Assessor which materially influenced his or her decision; and/or, (b) that his or her decision was materially influenced by incorrect material fact.
- (c) Such request shall be made by sending or delivering a written request to the Presbytery Clerk, and such request shall also intimate, in brief, specific, numbered propositions, the grounds in subsection (b) above relied on by the Presbytery or the Complainer.
- (d) In the event that the Reviewer determines that one or both of the foregoing grounds have been established, he or she shall order a new Referral to be made to a different Assessor.
- (e) In the event that the Reviewer determines that neither of the foregoing grounds has been established, the decision of the Assessor shall be deemed to have become final.
- (f) The decision of the Reviewer as regards the Procedural Review shall be final and not subject to appeal, dissent and complaint or any other form of further review.

## **Part 6 ADMINISTRATIVE SUSPENSION**

- 20. (1) At any time after a Disciplinary Complaint comes to the notice of the Presbytery, the Presbytery, or any Committee or individuals holding delegated powers from Presbytery so to do, shall be entitled, at its or their discretion, to impose an Administrative Suspension on the Respondent. This entitlement shall be without prejudice to the general power of Presbytery described in section 13.
- (2) In the event that the Respondent is a Minister and he or she has been Administratively Suspended, the Presbytery shall appoint an Interim Moderator to the Respondent's charge.
- (3) Without prejudice to section 20(1), where the Respondent is a Candidate or Probationer in terms of section 10(6) or 10(7), the FAPLT may impose an Administrative Suspension on the Respondent in respect of their candidature or Probationer training, as the case may be, pending a decision in terms of section 20(1) by the Presbytery or any Committee or individuals holding delegated powers from Presbytery, as the case may be. The Head of the Faith Action Programme shall advise the relevant Presbytery of any Administrative Suspension so imposed.
- (4) If the Respondent falls within section 10(1), (2), (3), (4), (5), (6), (7) or (10) then the Presbytery shall advise the Head of the Faith Action Programme of the fact that an Administrative Suspension has been imposed.

- (5) Once an Administrative Suspension has been imposed, it shall be presumed to continue until such time as the circumstances leading to its imposition no longer pertain; but the Administrative Suspension shall be subject to review, upon request by the Respondent or the Assessor, at three-monthly intervals from the date of its imposition. Each such review shall be undertaken and decided upon by the Convener, whom failing the Vice-Convener, of the Legal Questions Committee, who shall have power to lift the Administrative Suspension upon cause shown by the Respondent or the Assessor. In making a decision, the Convener or Vice-Convener of the Legal Questions Committee shall first consult with the Solicitor of the Church and the Principal Clerk.

## **Part 7 INVESTIGATORY PROCEEDINGS**

21. (1) If the Assessor, following consideration in terms of section 19(1) decides to commence Investigatory Proceedings, he or she shall:
- (a) intimate in writing to the Respondent the terms of the Disciplinary Complaint and the nature of the evidence purported to exist in support of it;
  - (b) invite the Respondent to provide a written answer to the Disciplinary Complaint to the Assessor within fourteen (14) days of the Respondent's receipt of such intimation, always provided that the Respondent shall not be obliged to answer; and
  - (c) give notice to the Presbytery of the commencement of Investigatory Proceedings.
22. (1) Within twenty eight (28) days of the Assessor's receipt of the Respondent's written answer to the Disciplinary Complaint (or if no such written answer is received, within thirty five (35) days of the likely receipt by the Respondent of the Assessor's invitation in terms of section 21(1)(b)), the Assessor must decide which one of the following courses of action to take:
- (a) to determine that the Respondent has no case to answer in terms of this Act;
  - (b) to offer the Respondent, with the consent and concurrence in writing, of a Convener (or Vice-Convener) of the Discipline Tribunal an opportunity to consent to a Censure, available for acceptance for a period of forty two (42) days, in order to conclude the Investigatory Proceedings, the Respondent having received legal advice; or
  - (c) to continue to investigate the Disciplinary Complaint.
- (2) In the case of a decision by the Assessor in terms of section 22(1)(a), such decision shall not be subject to appeal or dissent and complaint or any other form of review, other than a Procedural Review carried out by a Reviewer on the same basis as set out in section 19(3). The Assessor shall confirm any decision in terms of section 22(1)(a) in a report sent to the Presbytery, the Complainer (if any) and the Respondent, which report shall include a statement of the reasons for his or her decision. In intimating his or her decision and the reasons, the Assessor shall advise the Presbytery and the Complainer (if any) of their right to a Procedural Review.

23. An offer of a Censure with consent, in terms of section 22(1)(b) shall be open for acceptance by the Respondent within a period of forty two (42) days from the date of issue and if not so accepted shall be deemed to be refused, in which case the Assessor shall continue to investigate the Disciplinary Complaint in terms of section 22(1)(c). If such an offer is accepted, the Censure with consent shall be recorded as is appropriate, depending on the person and on the type of Censure with consent, according to the general scheme specified in Part 10 and in each case, the recording of the Censure with consent shall conclude the Investigatory Proceedings, subject only to further procedure under Part 13. The Assessor shall send the document recording the agreed Censure with consent to the Respondent, the Session Clerk(s) of the congregation(s) concerned, the Presbytery Clerk, the Principal Clerk of the General Assembly and (save where the Respondent is an Elder or Office-Bearer) the Head of the Faith Action Programme, and to the Solicitor of the Church, who shall make it available for public inspection.
24. (1) In the event that the Assessor decides to continue to investigate the Disciplinary Complaint in terms of section 22(1)(c), the Assessor shall carry out such investigations as he or she, in his or her sole discretion, deems necessary to determine whether a Disciplinary Offence may have been committed. Subject to subsection (2), such investigations shall be concluded within thirty five (35) days of the date on which the Assessor's decision, in terms of section 22, is made.
- (2) The Convener, whom failing the Vice-Convener, of the Legal Questions Committee shall have power, on cause shown by the Assessor or the Respondent, to grant a further period or periods for completion of the investigation. Reasons for the Convener's or Vice-Convener's decision shall be given. In making a decision, the Convener or Vice-Convener of the Legal Questions Committee shall first consult with the Solicitor of the Church and the Principal Clerk. No second or subsequent extension shall be granted without the Respondent being given the opportunity to make representations as to whether or not the extension should be granted.
- (3) In all cases under this Act, the Assessor shall keep a record of the Investigatory Proceedings. The record shall comprise all evidence obtained by the Assessor including witness statements. The interviews conducted by the Assessor shall be digitally recorded.
25. If, in the course of the Investigatory Proceedings, an Assessor becomes aware of further allegations against the Respondent, which may constitute a Disciplinary Offence, then the Assessor shall proceed to consider and, if appropriate, investigate such allegations in terms of this Part.
26. At the conclusion of the Assessor's investigation and before deciding whether to initiate Disciplinary Proceedings under Part 8, the Assessor shall again make known to the Respondent the substance of the Disciplinary Complaint being considered by the Assessor and the nature of the evidence existing in support of it and shall offer the Respondent the opportunity to make any answer thereto, in person or in writing; provided that he or she shall not be obliged to answer.



27. (1) Upon consideration of the Disciplinary Complaint and evidence submitted and of any answers given, the Assessor shall be entitled to resolve that no further investigation shall be carried out and that no Disciplinary Proceedings should be instituted if there is no *prima facie* case to answer. In that event, the Assessor shall confirm this in a report sent to the Presbytery, the Complainer (if any) and the Respondent, which report shall include a statement of the reasons for his or her decision. In intimating his or her decision, the Assessor shall advise the Presbytery and the Complainer (if any) of their right to a Procedural Review.
- (2) At such time, the Assessor may also issue guidance to the Respondent regarding his or her conduct. Such guidance will be kept in the Record referred to in section 24(3) and will also be reported to the Head of the Faith Action Programme and recorded by him or her in a personal file for the Respondent.
- (3) For the avoidance of doubt, a decision not to initiate Disciplinary Proceedings against the Respondent, in relation to the whole or any part of a Complaint, shall not be subject to appeal or dissent and complaint or any other form of review other than a Procedural Review carried out by a Reviewer in terms of section 19(3).
- (4) In the circumstances where either (i) no Procedural Review is requested within the time frame applicable and that time frame has expired, or (ii) a Procedural Review takes place and the decision of the Assessor is upheld, then Presbytery shall thereafter recall any Administrative Suspension imposed in terms of sections 13 or 20.

## **Part 8 DISCIPLINARY PROCEEDINGS**

28. (1) In the event that the Assessor decides to initiate Disciplinary Proceedings, he or she shall prepare (a) a Notice of Complaint setting forth the alleged Disciplinary Offence or Disciplinary Offences (hereinafter referred to as "Charge" or "Charges") in respect of which it is proposed that Disciplinary Proceedings should be commenced, and (b) a summary of the evidence, whether from witnesses, documents or otherwise, that is considered to support the Charge or Charges made.
  - (2) The Notice of Complaint will run in the name of the Presbytery and will be in such form that, in respect of each Disciplinary Offence, there is set out the date(s), time(s) and place(s) of the Disciplinary Offence(s) and the facts necessary to constitute the Disciplinary Offence(s).
  - (3) The Assessor shall also intimate to Presbytery his or her decision to initiate Disciplinary Proceedings.
29. (1) The Assessor shall initiate Disciplinary Proceedings by lodging with the Solicitor of the Church:
    - (a) the Notice of Complaint;
    - (b) a list of the names and addresses of the witnesses to be adduced by the Assessor;
    - (c) a list of the productions to be put in evidence by the Assessor;

- (d) the summary of the evidence referred to in section 28(1)(b); and
  - (e) a request to the Solicitor to appoint a first diet and cite the Respondent to attend the first diet.
- (2) The Solicitor of the Church shall notify the Convener and Vice-Convener of the Legal Questions Committee that a Notice of Complaint has been lodged, shall arrange for the selection of a Discipline Tribunal and shall thereafter:
- (a) fix a date for the first diet, being a date not earlier than fourteen days after the lodging of the Assessor's request under section 29(1)(e); and
  - (b) serve on the Respondent, by both first class and "signed for" post or personally by means of a Sheriff Officer, the items listed at sections 29(a) to (d), and
  - (c) intimate the first diet and a list of the names of those selected to serve on the Discipline Tribunal to the Respondent.
- In intimating the date of the first diet, the Solicitor of the Church shall draw to the attention of the Respondent the provisions of section 32 as to failure to appear.
- (3) In the event that service of the Notice of Complaint has not been timeously or regularly effected, the Solicitor shall:
- (a) re-serve on the Respondent the items listed at sections 29(a) to (d); and
  - (b) fix a fresh date for the first diet, being a date not earlier than fourteen days after the date of re-service in terms of section 29(3)(a).
30. (1) The first diet will be held before the Discipline Tribunal.
- (2) At the first diet the Respondent may challenge:
- (a) the competency or relevancy of the Notice of Complaint; or
  - (b) the constitution of the Discipline Tribunal:
- provided that, in respect of any challenge to the competency or relevancy of the Notice of Complaint, intimation of the ground of such challenge must be given to the Assessor and the Secretary to the Discipline Tribunal not later than fourteen days before the diet is due to be held, and any challenge to constitution shall be disposed of immediately, unless the Discipline Tribunal consider that the matter cannot be decided without proof.
- (3) At the first diet the Discipline Tribunal may:
- (a) adjourn the first diet for any reason;
  - (b) allow the Notice of Complaint to be amended by deletion, alteration or addition, so as to cure any error or defect in it or meet any objection to it, on such conditions as they think fit;
  - (c) sustain or repel any challenge to the competency or relevancy of the Notice of Complaint in whole or in part;
  - (d) defer consideration of such challenge until after proof,
  - (e) deal with any practical and/or procedural matters related to the Notice of Complaint which can usefully and expeditiously be dealt with at the first diet. The Discipline Tribunal shall have the power to make any order or determination which is just and reasonable, which order or determination shall be final.
- (4) After disposal or deferment of any challenge referred to in subsection (2) above, the Respondent shall be required to state whether he or she admits or denies each of the Charges, if any, which remain on the Notice of Complaint.

- (5) Where the Respondent admits all the individual Charges brought, the Discipline Tribunal shall, after hearing and considering any statement by the Assessor and any statement by or on behalf of the Respondent in mitigation, pass such Censure upon the Respondent as appears to it appropriate or discharge the Respondent and shall record its decision in a document signed by the Convener. The provisions of section 37(1) shall apply.
  - (6) Where the Respondent denies some, or all, of the Charges brought, the Discipline Tribunal will appoint a date for the proof of those charges which are denied and defer consideration of the question of Censure in respect of any Charges which are admitted, until close of the proof; provided that the Assessor may:
    - (a) accept any denial of any individual Charge; or
    - (b) accept an admission of an individual Charge in part;
 in which case the proof will be confined to those Charges which are denied and which denial is not accepted by the Assessor.
  - (7) The date appointed for proof shall be not less than twenty eight (28) days nor more than fifty six (56) days after the first diet or any adjournment thereof, but the Discipline Tribunal shall have power, upon cause shown by either party, to fix a date outwith that period, or to adjourn the proof diet.
  - (8) Where the Discipline Tribunal has appointed a date for proof, it may make an Order requiring the Respondent to intimate to the Secretary to the Discipline Tribunal and to the Assessor, within such period as they shall specify, a list of the names and addresses of the witnesses to be adduced and a list with copies of the productions to be put in evidence by him or her.
  - (9) Where (a) the Respondent has intimated in writing to the Assessor and to the Secretary to the Discipline Tribunal (i) that there is no challenge in terms of section 30(2) and (ii) that the Charge or Charges on the Notice of Complaint are all denied, and (b) both the Assessor and the Respondent intimate in writing to the Secretary to the Discipline Tribunal that there are no other matters which they wish to raise at the First Diet, it shall not be necessary to hold a First Diet and instead the Convener, Vice-Convener and Secretary of the Discipline Tribunal shall appoint a date for the proof of the Charge or Charges and make any Order in terms of section 30(8).
31. All proceedings in terms of Part 8 or Part 9 shall take place in public except (a) where either the Assessor or the Respondent request that and show cause why, the hearing, or part thereof, should be held in private; or (b) where the hearing of evidence from any person, or narration of facts thereof, in the opinion of the Discipline Tribunal, is likely to prejudice morals or public order, to affect adversely the interests of justice or the private life of the parties or in any other special circumstances where publicity would prejudice the interests of justice, provided that, in any event, the Discipline Tribunal shall restrict publicity only to the extent which it deems to be strictly necessary.
  32. If a party fails to attend or be represented at the time and place fixed for the proof, without cause shown, the Discipline Tribunal may (a) adjourn the proof to a later date; (b) if that party is the Assessor, dismiss the Notice of Complaint; or (c) if that party is the Respondent, proceed to hear the proof in his or her absence, to reach a decision thereon and if appropriate, to pass Censure.
  33. (1) Witnesses shall be required by the Convener to take the oath or to affirm prior to giving evidence.

- (2) The proceedings at the proof may be digitally recorded.
  - (3) If produced by either party, the notices issued by the Assessor in terms of section 21(1)(a) and/or section 23 and any answers thereto by the Respondent, shall be admissible in evidence.
  - (4) In subsection (2) “the proceedings at the proof” shall, unless the Discipline Tribunal directs otherwise, mean the whole proceedings to the close of the proof, including, without prejudice to that generality: (a) discussions on all matters arising in the course of the proof and the decision of the Discipline Tribunal on any such matter, (b) the evidence led at the proof, and (c) the speeches of the parties or their solicitors on their behalf.
34. Each party shall be entitled to give evidence, to call witnesses, to question any witness and to address the Discipline Tribunal, provided that the Respondent shall have the right to speak last.
35. Subject to sections 33 and 34, the conduct of the proof shall be in such manner as the Discipline Tribunal considers most appropriate for the determination of the issues before it and to the just handling of the proceedings.
36. (1) No proof shall fail, or the ends of justice be allowed to be defeated, by reason only of any discrepancy between the Notice of Complaint and the evidence.
- (2) It shall be competent, at any time prior to the decision of the Discipline Tribunal, unless the Discipline Tribunal see just cause to the contrary, to amend the Notice of Complaint by deletion, alteration or addition, so as to:
- (a) cure any error or defect in it;
  - (b) meet any objection to it; or
  - (c) cure any discrepancy or variance between the Notice of Complaint and the evidence,
- provided that no amendment to the Notice of Complaint may change the character of the Charge or Charges .
- (3) If it appears to the Discipline Tribunal that the Respondent may, in any way, be prejudiced in his or her defence on the merits of the Charges by any amendment made under this section, the Discipline Tribunal shall grant such remedy to the Respondent by adjournment, or otherwise, as appears to the Discipline Tribunal to be just.
37. (1) At the close of the proof, the Discipline Tribunal shall give its decision on whether and if so to what extent, each Charge on the Notice of Complaint has been established and the decision shall be recorded in a document signed by the Convener, provided that the Discipline Tribunal may take time to consider its decision and adjourn the diet of proof to a later date for that purpose.
- (2) Upon giving its decision and, in the event of any Charge being found to be established or admitted (including, without prejudice to that generality, those Charges admitted and deferred in terms of section 30(6)), after hearing and considering any statement by the Assessor and the Respondent in mitigation, the Discipline Tribunal shall pass such Censure, if any, upon the Respondent as appears to it appropriate according to the circumstances of each charge. In determining the appropriate Censure, no account shall be taken of any prior period of Administrative Suspension.
- (3) After giving its decision in terms of subsection (1), the Discipline Tribunal shall set forth in a document (a) those findings in fact which it has made and (b) the

Censure, if any, which it has imposed, giving reasons for both elements of its decision. The Discipline Tribunal shall also record the majority by which its decision in respect of (i) each Charge, and (ii) Censure, or absolute discharge, was reached.

- (4) The Secretary of the Discipline Tribunal shall send the documents, referred to in sections 37(1) and 37(3), to each of the parties, the Session Clerk(s) of the congregation(s) concerned, the Presbytery Clerk, the Principal Clerk of the General Assembly and (save where the Respondent is an Elder or Office-Bearer) the Head of the Faith Action Programme, and shall make them available for public inspection.

## **Part 9 ACCELERATED PROCEDURE WHERE THE RESPONDENT DESIRES TO ADMIT ALLEGATIONS**

38. (1) If, at any stage of proceedings prior to the service of a Notice of Complaint, the Respondent indicates that he or she wishes to admit all, or any, of the allegations made against him or her, he or she shall be entitled so to intimate to the Assessor. Said admission must be in writing and signed by the Respondent. It should include a statement by the Respondent that he or she has received legal advice on the matter. The admission shall not be accepted by the Assessor in the absence of a statement that legal advice has been received. In the event that the Assessor is willing to accept the said admission, either immediately or after making such other enquiries or investigations he or she considers appropriate, the Assessor shall, as soon as practicable, proceed to adjust and agree a Joint Minute with the Respondent, or his or her solicitor. The said Joint Minute, which shall be signed by or on behalf of both parties, shall set out:
  - (a) the Disciplinary Offence or Disciplinary Offences which are admitted;
  - (b) an agreed summary of the material facts; and
  - (c) such other information as it is agreed should be before the Discipline Tribunal to assist it in reaching an appropriate disposal of the case.

In the event that the Assessor is either unwilling to accept the said admission or, following upon discussions with the Respondent or his or her solicitor, he or she concludes that it will not be possible to agree the terms of the Joint Minute, he or she shall be entitled to resume their investigations, and if appropriate, proceed to prosecute the case in accordance with the other provisions of this Act.

- (2) The Assessor shall, after signature thereof, transmit the Joint Minute to the Solicitor of the Church, who shall proceed to notify the Convener and Vice-Convener of the Legal Questions Committee and arrange for the selection of a Discipline Tribunal. The Solicitor shall thereafter, in name of the Tribunal, fix a date for a diet before the Tribunal, being a date not earlier than fourteen (14) days after the date of intimation thereof. The Solicitor shall intimate the said date to the Assessor and the Respondent and his or her solicitor.
- (3) At the said diet, the Discipline Tribunal shall, after hearing and considering any statement by the Assessor and any statement by the Respondent in mitigation, pass such Censure upon the Respondent as appears to it appropriate or discharge

the Respondent and shall record its decision, with brief reasons therefor, in a document signed by the Convener. The Tribunal shall be entitled *inter alia* to take into account the fact that an early plea was made and mitigate any Censure as it sees fit. In determining the appropriate Censure, no account shall be taken of any prior period of Administrative Suspension.

- (4) The Secretary of the Discipline Tribunal shall send the document referred to in section 38(3) to each of the parties, the Session Clerk(s) of the congregation(s) concerned, the Presbytery Clerk, the Principal Clerk of the General Assembly and (save where the Respondent is an Elder or Office-Bearer) the Head of the Faith Action Programme, and shall make it available for public inspection.
- (5) In the event that the Respondent at the diet withdraws or modifies, to any extent, the admission previously made to all, or any, of the Disciplinary Offences, unless this is accepted by both the Assessor and the Tribunal, the diet shall be adjourned and thereafter the case shall proceed, as directed by the Tribunal, in accordance with the other provisions of this Act.

## **Part 10 CENSURES**

39. The Discipline Tribunal shall dispose of all discipline cases as seems appropriate to it. In reaching a decision as to a suitable Censure, it shall not take into account any prior period of Administrative Suspension. It shall, however, take into account any previous Censures imposed on the Respondent by the Discipline Tribunal or any matter, which it considers relevant, in any personal file for the Respondent, held by the FAPLT, which shall be made available to it by the Head of the Faith Action Programme.
40. The Censures available to the Tribunal, in respect of any Respondent, shall comprise the following or any combination thereof:
  - (1) Ministers of Word and Sacrament and Deacons
    - (i) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:
      - (a) the Presbytery and recorded by it in a record apart, and
      - (b) the Head of the Faith Action Programme and recorded by him or her in a personal file for the Respondent.
    - (ii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
      - (a) the Presbytery and recorded by it in a record apart; and
      - (b) the Head of the Faith Action Programme and recorded by him or her in a personal file for the Respondent.

Disobedience of an Instruction shall constitute a Disciplinary Offence.

- (iii) **Suspension** from the status and functions of ministry either (a) for a fixed period of up to three years<sup>21</sup>, or (b) without limit of time, but subject to a minimum period of suspension. Such suspension shall be reported to the Head of the Faith Action Programme. In all cases, suspension will result in the re-categorisation of the Respondent to Category S in the Register of Ministry and suspension may only be lifted in accordance with section 28 of the Registration of Ministries Act (Act II 2017) upon application by the Respondent. In the event of an individual, who is suspended, having his or her pastoral tie severed, in no circumstances shall he or she be eligible to be re-appointed to the same charge.
- (iv) **Removal** of the status and functions of ministry. Such removal of status shall be reported to the Head of the Faith Action Programme. In accordance with section 34 of the Registration of Ministries Act (Act II 2017), the Respondent's name shall immediately be removed from the Register of Ministry and recorded in List D. In all cases, restoration of status can only be sought through application in accordance with the Admission and Readmission of Ministers Act (Act XIII 2022). No such application may be lodged until a period of at least four years has elapsed since the date of removal of the Respondent's status and functions.

(2) Graduate Candidates

- (i) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:
  - (a) the Presbytery and recorded by it in a record apart, and
  - (b) the Head of the Faith Action Programme and recorded by him or her in a personal file for the Respondent.
- (ii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
  - (a) the Presbytery and recorded by it in a record apart; and
  - (b) the Head of the Faith Action Programme and recorded by him or her in a personal file for the Respondent.

Disobedience of an Instruction shall constitute a Disciplinary Offence.

- (iii) **Suspension** from status for a specified minimum period of up to three years, subject to restoration by the FAPLT in consultation with the Presbytery, upon

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<sup>21</sup> This to tie in with the Registration of Ministries Act and the way it deals with those who are out of parish ministry for over three years and who would at that point lose their category "O" registration

petition by the Respondent following the expiry of such period. The FAPLT shall take into account the length of suspension served and may insist upon such discernment, assessment and training processes and placements as it sees fit.

- (iv) **Removal** of status, subject to restoration by the FAPLT in consultation with the Presbytery, upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed since the date of removal of such status. The FAPLT shall take into account the length of removal and may insist on such discernment, assessment and training processes and placements as it sees fit.

(3) Licentiates

- (i) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:

- (a) the Presbytery and recorded by it in a record apart, and
- (b) the Head of the Faith Action Programme and recorded by him or her in a personal file for the Respondent.

- (ii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:

- (a) the Presbytery and recorded by it in a record apart; and
- (b) the Head of the Faith Action Programme and recorded by him or her in a personal file for the Respondent.

Disobedience of an Instruction shall constitute a Disciplinary Offence

- (iii) **Suspension** from the Roll of Licentiates for a specified minimum period of up to three years, subject to restoration by the FAPLT, in consultation with the Presbytery, upon petition by the Respondent following the expiry of such period. The FAPLT shall take into account the length of suspension served and may insist upon such discernment, assessment and training processes and placements as it sees fit.

- (iv) **Removal** from the Roll of Licentiates, subject to restoration by the FAPLT, in consultation with the Presbytery, upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed since the date of removal from the Roll. The FAPLT shall take into account the length of removal and may insist on such discernment, assessment and training processes and placements as it sees fit.

(4) Candidates and Probationers



- (i) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:
  - (a) the Presbytery and recorded by it in a record apart, and
  - (b) the Head of the Faith Action Programme and recorded by him or her in a personal file for the Respondent.
- (ii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
  - (a) the Presbytery and recorded by it in a record apart; and
  - (b) the Head of the Faith Action Programme and recorded by him or her in a personal file for the Respondent.

Disobedience of an Instruction shall constitute a Disciplinary Offence.

- (iii) **Suspension** from status for a specified minimum period of up to three years, subject to restoration by the FAPLT in consultation with the Presbytery, upon petition by the Respondent following the expiry of such period. The FAPLT shall take into account the length of suspension served and may insist upon such discernment, assessment and training processes and placements as it sees fit.
- (iv) **Removal** of status, subject to restoration by the FAPLT in consultation with the Presbytery, upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed since the date of removal of such status. The FAPLT shall take into account the length of removal and may insist on such discernment, assessment and training processes and placements as it sees fit.

(5) Readers

- (i) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:
  - (a) the Presbytery and recorded by it in a record apart, and
  - (b) the Head of the Faith Action Programme and recorded by him or her in a personal file for the Respondent.
- (ii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
  - (a) the Presbytery and recorded by it in a record apart; and

- (b) the Head of the Faith Action Programme and recorded by him or her in a personal file for the Respondent.

Disobedience of an Instruction shall constitute a Disciplinary Offence.

- (iii) **Suspension** from the status and duties of the Readership for a specified minimum period of up to three years, subject to restoration by the Presbytery (but only with the agreement of the FAPLT) upon petition by the Respondent following the expiry of such period. In considering whether the suspension shall be lifted, the FAPLT shall take into account the length of suspension served and may insist on such discernment, assessment and training processes and placements as it sees fit.
- (iv) **Removal** of the status and duties of the Readership, subject to restoration by the Presbytery (but only with the agreement of the FAPLT) upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed from the date of removal of status and duties. In considering whether the petitioner should be restored to such status and duties, the FAPLT shall take into account the length of suspension served and may insist upon such discernment, assessment and training processes and placements as it sees fit.

(6) Elders and other Office Bearers

- (i) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:
  - (a) the Kirk Session and recorded by it in a record apart, and
  - (b) the Presbytery and recorded by it in a record apart.
- (ii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
  - (a) the Kirk Session and recorded by it in a record apart; and
  - (b) the Presbytery and recorded by it in a record apart.

Disobedience of an Instruction shall constitute a Disciplinary Offence.

- (iii) **Suspension** from membership of a Kirk Session and from holding any other office within a congregation for a specified minimum period of up to three years, subject to restoration by the Presbytery, with the agreement of the Kirk Session, upon petition by the Respondent following the expiry of such period.

Such suspension shall be reported by the Tribunal to:

- (a) the Kirk Session and recorded by it in a record apart; and
- (b) the Presbytery and recorded by it in a record apart.

An Elder, having been restored by Presbytery following suspension and being invited to become a member of another Kirk Session (i.e. not the one from which he/she was suspended), shall inform both the Session Clerk and the Presbytery Clerk of the circumstances of his/her suspension and may only be so admitted if the Kirk Session in question then agrees to proceed.

- (iv) **Removal** from the status and office of Elder, subject to restoration by the Presbytery with the agreement of the Kirk Session upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed from the date of removal of status and office.

Such removal shall be reported by the Tribunal to:

- (a) the Kirk Session, and recorded by it in a record apart; and
- (b) the Presbytery and recorded by it in a record apart.

A person, having had the status of Elder restored following removal and being invited to become a member of another Kirk Session (i.e. not the one from which he/she was removed) shall inform both the Session Clerk and the Presbytery Clerk of the circumstances of his/her removal. They shall not accept such an invitation until a period of at least four years has elapsed since their removal from such status.

- (v) In the case of Office Bearers who are not Elders, **Removal** from a particular office held.

Such removal shall be reported by the Tribunal to:

- (a) the Kirk Session and recorded by it in a record apart; and
- (b) the Presbytery and recorded by it in a record apart.

An Office Bearer who is not an Elder and who is subsequently invited to take office in another congregation, shall inform both the Session Clerk and the Presbytery Clerk of the circumstances of his/her removal and may only be appointed to that office if the Kirk Session in question then agrees to it.

(7) Persons holding Certificates of Eligibility

- (i) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:

- (a) the Presbytery and recorded by it in a record apart; and
- (b) the Head of the Faith Action Programme and recorded by him or her in a personal file for the Respondent.

- (ii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
  - (a) the Presbytery and recorded by it in a record apart; and
  - (b) the Head of the Faith Action Programme and recorded by him or her in a personal file for the Respondent.

Disobedience of an Instruction shall constitute a Disciplinary Offence.

- (iii) **Removal** of the Certificate of Eligibility, subject to grant of a new Certificate of Eligibility in terms of the Admission and Readmission of Ministers Act (Act XIII 2022). Such removal shall be reported by the Tribunal to the Head of the Faith Action Programme. No application for a new Certificate of Eligibility may be lodged until a period of at least four years has elapsed from the date of removal of the previous Certificate of Eligibility.

#### **Part 11 DISCIPLINE TRIBUNAL: ADDITIONAL POWERS AND RULES OF PROCEDURE**

- 41. Where, in the view of the Discipline Tribunal, it is necessary to do so in the interests of justice, the Tribunal shall have power to order either party to produce, within such period as the Tribunal shall consider reasonable, any document or other article in that party's possession and any such document or other article shall be a Production in the proceedings and may be founded upon. Such a power shall be exercisable at any time up to the conclusion of the Proof.
- 42. The Discipline Tribunal may relieve a party from the consequences of a failure to comply with a provision of this Act shown to be due to mistake, oversight or other excusable cause, on such conditions as the Tribunal thinks fit.
- 43. The Discipline Tribunal shall have power to make regulations concerning the practice and procedure to be followed in any proceedings brought before the Discipline Tribunal, in terms of this Act, provided that such regulations shall be laid before and be subject to alteration, revocation, amendment or modification by the General Assembly.
- 44. No member of the Discipline Tribunal shall participate in any proceedings brought by a Presbytery of which he or she is a member or within the bounds of which there is a congregation of which he or she is a communicant member. This section shall not apply to the Solicitor of the Church.
- 45. Any decision of the Discipline Tribunal may be taken by a majority of its members.

#### **Part 12 APPEALS**

- 46. (1) If either the Assessor or the Respondent is dissatisfied with any decision of the Discipline Tribunal, they may appeal to the Judicial Commission in terms of the Appeals Act (Act I 2014). No right of appeal or dissent and complaint shall be allowed in respect of any act or decision done or taken in terms of this Act,

otherwise than in accordance with the provisions of this Act or the Appeals Act (Act I 2014).

- (2) In the case of any appeal against the severity of Censure, taken by any party, it shall be open to the Judicial Commission to vary the Censure in the direction of greater severity or greater leniency. In varying any Censure, no account shall be taken by the Judicial Commission of any prior period of Administrative Suspension.

### **Part 13 IMPLEMENTATION OF DECISION/CENSURE AT PRESBYTERY**

47. The Presbytery shall meet within not less than twenty-one (21) and not more than thirty-five (35) days after receiving intimation of the written decision of the Discipline Tribunal and shall implement the decision of the Discipline Tribunal. The Presbytery shall similarly meet to take appropriate steps after a Respondent accepts a Censure with consent. If the Respondent is a parish minister:

- (1) In the event that the decision has not involved Judicial Suspension or removal from office, it shall (a) lift any Administrative Suspension upon the individual concerned; (b) relieve the Interim Moderator of duty; and (c) undertake such steps in relation to other individuals and superintendence of its members and congregations as it finds necessary.
- (2) In the event that the decision has involved a period of Judicial Suspension of less than six months, the Presbytery shall, at its meeting, confirm the appointment of an Interim Moderator or make a new appointment and shall undertake such steps against other individuals and superintendence of its members and congregations as it finds necessary.
- (3) In the event that the decision has involved a period of Judicial Suspension of six months or more, or the removal of status of the Respondent, then: (i) the pastoral tie shall be severed; (ii) any parish of which the Respondent was minister shall be deemed to have become vacant on the date on which the written decision of the Discipline Tribunal was issued and (iii) any other ordained appointment which the Respondent held shall terminate on that date. The Presbytery shall, at its meeting, confirm the foregoing matters and it shall also confirm the appointment of an Interim Moderator or make a new appointment and shall undertake such steps against other individuals and superintendence of its members and congregations as it finds necessary.

In the event of an appeal being taken to the Judicial Commission against the decision of the Discipline Tribunal, (a) a Respondent, who is a parish minister, shall be entitled to remain in occupation of the manse pending the outcome of the appeal, and (b) the Presbytery shall meet again not less than twenty-one (21) and not more than thirty-five (35) days after receiving intimation of the written decision of the Judicial Commission and shall implement the decision of the Judicial Commission. The foregoing sections of this section 47 shall then apply *mutatis mutandis*. Where the decision of the Judicial Commission involves a change to a Censure imposed on a Respondent, who is a parish minister, (a) the Presbytery shall implement the foregoing sections of this section 47 so

far as practicable and may seek the advice of the Principal Clerk as to dealing with any practical consequences of the Judicial Commission's decision, and (b) where that change is from a Judicial Suspension of six months or more or a removal of status to a Judicial Suspension of less than six months such that the pastoral tie would not have been severed, then the Respondent shall be entitled to be compensated for stipend which should have been paid to him or her for the period from the date of the Discipline Tribunal's decision until the earlier of (a) six months after the date of the Judicial Commission's decision and (b) the date upon which the Respondent takes up remunerated employment or office.

#### **Part 14 REPRESENTATION**

48. The Assessor and the Respondent may be represented by a solicitor or counsel at any stage of the Investigatory Proceedings, Disciplinary Proceedings or appeal.

#### **Part 15 EXPENSES**

49. A Respondent shall be entitled to apply for financial assistance towards the costs of legal representation (a) where a Censure with consent is being accepted, (b) in the conduct of Disciplinary Proceedings under Part 8 and any appeal following thereon, and (c) where a Respondent is making an admission under Part 9 (Accelerated Procedure), in each case in terms of the Legal Aid in Disciplinary Proceedings Regulations (Regulations I 2018).

#### **Part 16 GUIDANCE ON THE IMPLEMENTATION AND OPERATION OF THIS ACT**

50. The Legal Questions Committee shall issue Guidance on the implementation and operation of this Act, which shall be reviewed by it, from time to time.

#### **Part 17 ADMINISTRATIVE SUPPORT FOR ASSESSORS**

51. In cases where administrative assistance is provided to an Assessor, any cost incurred will normally require to be met by the Presbytery in question, although in cases where a Presbytery does not hold sufficient funds, application may be made via the Principal Clerk to the Legal Aid Fund.

#### **Part 18 COMMENCEMENT DATE AND SAVING PROVISIONS**

52. This Act shall come into force on 18 May 2019. Where a Special Committee of Presbytery was appointed under Act III 2001, Act IV 2007, Act V 2007 or Act I 2010 prior to 18 May 2019, such a matter shall continue until final disposal (including any appeal) in accordance with the law in force immediately before 18 May 2019. Otherwise all disciplinary matters, whether new or ongoing, shall from 18 May 2019 be dealt with under the provisions of this Act. Any disputes as to what that shall mean in practice for any particular matter shall be resolved by the Convener and Vice-Convener of the Legal

Questions Committee, upon application by any of the Special Committee, an Assessor or the Respondent, as the case may be, and the decision of the Convener and Vice-Convener shall be final and binding. In making such decision, the Convener and Vice-Convener of the Legal Questions Committee shall first consult with the Solicitor of the Church and the Principal Clerk.

## **Part 19 CONSEQUENTIAL AMENDMENTS AND REPEALS**

53. With effect from the date of passing of this Act, other Acts of the General Assembly shall be amended or repealed as follows:

### **ACT X 1932 (Election and Admission of Elders and Deacons)**

*After the first sentence of section 5 add:*

“As part of this process, the Kirk Session shall require all elders-elect to confirm that they have not previously been ordained as an elder in the Church of Scotland and then resigned that status or had that status judicially removed.”

### **ACT I 1988 (Congregations in Unsatisfactory State)**

*Delete the second sentence of section 17 and substitute “The procedure shall, except as herein provided, be as in section 46 of the Discipline Act (Act ZZ 2019).”*

### **ACT III 2000 (Church Courts Act)**

*In section 37(1), delete “Act I 2010” and substitute “Act ZZ 2019”.*

### **ACT III 2001 (Discipline of Ministry)**

*This Act is to be repealed save that it shall remain in force for matters where a Special Committee of Presbytery was appointed prior to [relevant date] – ie date of passing of Overture at GA 2019*

### **ACT VI 2002 (Co-operation between Presbyteries)**

*In section 2, add at the end “and Act ZZ 2019”.*

### **ACT IX 2002 (Admission and Re-admission of Ministers Act)**

*In section 4(2), after “Act III 2001 (as amended)” add “or Act ZZ 2019”.*

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

1. *In section 3(b), add at the end “or section 40 of Act ZZ 2019”.*

2. *In section 18(6) add at the end “or the Discipline Act (Act ZZ 2019).”*

### **ACT X 2004 (Selection and Training for Full-Time Ministry)**

*At the start of section 23, add:*

“Subject always to the provisions of the Discipline Act (Act ZZ 2019), which shall apply in respect of a Disciplinary Complaint (as that term is defined in the Discipline Act) relating to a Candidate, Probationer or Graduate Candidate (as those terms are used in this Act),”

**ACT IV 2007 (Protection against Bullying), ACT V 2007 (Protection against Discrimination) and ACT I 2010 (Discipline of Elders, Readers and Office-Bearers)**

*These Acts are to be repealed save that they shall remain in force for matters where a Special Committee of Presbytery was appointed prior to [relevant date] – ie date of passing of Overture at GA 2019*

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

*At the start of section 18, add:*

“Subject always to the provisions of the Discipline Act (Act ZZ 2019), which shall apply in respect of a Disciplinary Complaint (as that term is defined in the Discipline Act) relating to a Candidate, Probationer or Graduate Candidate (as those terms are used in this Act),”

**ACT I 2014 (Appeals)**

1. *Add a further definition to section 1, “Definitions and Interpretation” as follows:*

““Discipline Tribunal” means a Discipline Tribunal constituted under the provisions of the Discipline Act (Act ZZ 2019).

2. *Delete the existing section 4(3) and substitute the following:*

“(3) The Judicial Commission shall hear the following cases:

- (i) Appeals under the Discipline of Ministry Act (Act III 2001), the Protection against Bullying Act (Act IV 2007), the Protection against Discrimination Act (Act V 2007), the Discipline of Elders, Readers and Office-Bearers Act (Act I 2010) and the Discipline Act (Act ZZ 2019), being appeals against the decisions of the Presbyterial Commission and of Discipline Tribunals in discipline cases, except in matters of doctrine;
- (ii) Appeals in all cases arising under the Congregations in an Unsatisfactory State Act (Act I 1988); and
- (iii) Appeals in Personal Cases.

For the avoidance of doubt, the Judicial Commission shall not hear appeals to the Ministries Appeal Panel in accordance with Act VI 2007.”

3. *Delete the existing Part 3 and substitute the following:*

**“PART 3: THE JUDICIAL COMMISSION**

**22. Appointment of members of the Judicial Panel**

(1) There shall be a pool of persons, known as the Judicial Panel, from which there shall be drawn the persons to serve on the Discipline Tribunal and the Judicial Commission. Members of the pool may also serve as Reviewers under the Discipline Act (Act ZZ 2019).

(2) The Judicial Panel shall comprise twenty people being ministers, elders and deacons nominated by the Nomination Committee and appointed by the General Assembly. All members of the Judicial Panel shall be qualified to practise as lawyers or shall be experienced in the law and practice of the Church.

(3) The members of the Judicial Panel shall initially be appointed for a term of four years, and shall be eligible for reappointment for further terms of four years.

(4) In the event of a member of the Judicial Panel approaching the end of their current term of appointment and not wishing to be reappointed but being then engaged in the hearing of a case or an appeal, he or she shall continue in office, but only until the Discipline Tribunal or



the Judicial Commission has recorded its decision in the case or appeal in question, as the case may be.

(5) The Procurator of the Church shall not be eligible for inclusion in the Judicial Panel but may be requested to attend a sitting of the Judicial Commission if it is so determined at the Appeal Management Hearing referred to in Schedule 2.

### **23. Constitution of the Judicial Commission**

Whenever a sitting of the Judicial Commission is required, the Clerks of Assembly shall select the following persons:

- (iii) Subject to the provisions of section 23(1) three persons, including at least one minister or deacon and one elder, all selected at random from the Judicial Panel; and
- (iv) A Convener and a Vice-Convener, from those appointed under section 16 below.

No person who has been selected for the Discipline Tribunal for a particular matter shall thereafter be selected for the Judicial Commission for the same matter.

### **24. Conveners & Vice-Conveners of the Discipline Tribunal and the Judicial Commission**

(1) The General Assembly, on the nomination of the Nomination Committee, and in accordance with the Standing Orders of the General Assembly, shall appoint up to twelve persons to be Conveners and/or Vice-Conveners of the Discipline Tribunal and the Judicial Commission, all of whom shall be qualified to practise as lawyers or shall be persons experienced in the law and practice of the Church.

(2) Each sitting of the Discipline Tribunal shall be chaired by a Convener so appointed, or by a Vice-Convener so appointed when one is required according to the Discipline Act (Act ZZ 2019).

(3) Each sitting of the Judicial Commission shall be chaired by either a Convener or a Vice-Convener so appointed.

(4) The person who chairs a sitting (or hearing) of the Discipline Tribunal or Judicial Commission shall have a casting vote.

### **25. Quorum**

The quorum of the Judicial Commission shall be three persons.

### **26. Sittings**

Sittings of the Judicial Commission shall be called by the Principal Clerk.

### **27. Report to the General Assembly**

A Minute of proceedings of the Judicial Commission shall be incorporated in a written report to the General Assembly, but shall not be subject to review by the General Assembly.

### **28. Relation to Legislation**

The Judicial Commission 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.”

4. *In paragraph 16.1 of Schedule 2, after “Act III 2001” add “, the Discipline Act (Act ZZ 2019) and the Legal Aid in Disciplinary Proceedings Regulations (Regs I 2018)”*

**ACT II 2017 (Registration of Ministries)**

1. *In sections 11, 12 and 13, in the wording for category S, after “Discipline of Ministry Act (Act III 2001)” add “or the Discipline Act (Act ZZ 2019)” and after “Act III 2001” in the last line, add “or Act ZZ 2019”.*
2. *In paragraphs 2(1) and 2(2) of Schedule 2, after “(Act III 2001)” add “or section 40 of the Discipline Act (Act ZZ 2019)”.*
3. *In paragraph 2(2)(i) of Schedule 2, after the words “Presbyterial Commission” add “or Discipline Tribunal, as the case may be,”.*

## **V TRANSFER BETWEEN MINISTRIES ACT (ACT V 2019)**

*Edinburgh, 23 May 2019, Session 17*

The General Assembly hereby enact and ordain as follows:

### **Definitions**

1. For the purposes of this Act and the Schedule attached hereto:
  - (a) “applicant” means the person applying for a transfer;
  - (b) “Assessment Conference” means an assessment of the applicant by a body of trained Assessors in a conference setting as referred to in more detail in Act X 2004;
  - (c) “Assessment Panel” means assessment in the form of (i) an interview with a psychologist and (ii) an interview with two national assessors;
  - (d) “Auxiliary Ministry” means the ministry referred to in Act XIII 2003 and “Auxiliary Minister” shall be construed accordingly, but in each case subject always to the provisions of Act IX 2011;
  - (e) “Candidate” means a person who has been both accepted by the Committee and nominated by their Presbytery, and in the context of this Act is used in respect of a person who has applied to transfer and who in terms of this Act has been accepted for training for the Ordained National Ministry, the Ordained Local Ministry or the Diaconate;
  - (f) “Committee” means the Committee to which the Forum has delegated matters relating to education and training of ministers, readers and deacons, currently being the Education and Support Committee;
  - (g) *Definition of “Council” deleted when the Ministries Council became the “Faith Nurture Forum”;*
  - (h) “Diaconate” means the ministry referred to in Act VIII 2010 and “Deacon” shall be construed accordingly;
  - (ha) “Forum” means the Faith Nurture Forum;
  - (i) “Local Mentor” means the person chosen by the Committee who mentors the applicant during a Period of Discernment;
  - (j) “Local Review” means a review undertaken by a group consisting of one Assessor appointed by the Forum, the Local Mentor and the Presbytery Assessor;
  - (k) “Ordained Local Ministry” means the ministry referred to in Act IX 2011 and “Ordained Local Minister” shall be construed accordingly;
  - (l) “Ordained National Ministry” means the ministry referred to in Act X 2004 and “Ordained National Minister” shall be construed accordingly;
  - (m) “Period of Discernment” means time spent on placement with a Local Mentor and Presbytery Assessor exploring the nature of the applicant’s call and gifting;
  - (n) “Presbytery Assessor” means the person chosen by Presbytery who supports the Local Mentor and applicant throughout the Period of Discernment;
  - (o) “Prospective Candidate” means a person who has been accepted by the Committee and is awaiting the outcome of their application to Presbytery for nomination;
  - (p) “Readership” means the ministry referred to in Act XVII 1992 and “Reader” shall be construed accordingly;

- (q) “recognised ministries of the Church” means the Ordained National Ministry, the Ordained Local Ministry, the Readership and the Diaconate.
- (r) “UK State Pension Age” means a person’s UK State Pension Age as determined at the relevant time by the UK Government’s calculations<sup>\*22</sup>.

**Transfer Routes and discernment, assessment and training requirements**

- 2. The provisions of this Act are summarised in the table attached at Schedule A, which is attached for ease of reference. Where there is any conflict between the provisions of this Act contained in Sections A to D and those of the table in Schedule A, the provisions of this Act in Sections A to D shall prevail. Content of the table at Schedule A set out in bold is provided for information only.

**Age Limit**

- 3. Where the table attached at Schedule A indicates that an age limit applies on transfer, ie it states “Must complete by 10 years before UK State Retirement Age”, that means that an application will not be considered from any person who in all normal circumstances could not complete the prescribed course before 31 December in the year which is 10 years before the calendar year in which that person will reach UK State Pension Age. In the remaining provisions of this Act, this provision is referred to as “The Age Limit applies”. Where this Act is silent, the Age Limit does not apply.

**Time limit for commencement of course**

- 4. Where a person makes an application to transfer under this Act, or under previous similar legislation, and is successful, if that person does not then commence the prescribed course within three years of the date of their acceptance, their acceptance shall lapse, subject to the right for the person to apply to the Committee for an extension in exceptional circumstances. In determining an application for an extension, the Committee may in its discretion grant an extension, grant an extension subject to conditions, or refuse an extension.

**Person must first be accepted as a Candidate/Reader in Training or be an ONM, OLM, DCS or Reader in service or retired**

- 5. A person must first (a) be accepted as either (i) a candidate for the Ordained National Ministry, Ordained Local Ministry or Diaconate or (ii) as a Reader in Training, or (b) be an Ordained National Minister, an Ordained Local Minister, a Deacon or a Reader in service or retired, before being entitled to make an application to transfer under this Act, and may then apply to transfer only according to the following provisions of this Act.

**SECTION A - TRANSFERS FROM THE ORDAINED LOCAL MINISTRY AND AUXILIARY MINISTRY**

**Transfer to being a Candidate for the Ordained National Ministry**

- 6. (1) In a situation where an Ordained Local Minister (which for the purposes of this section only shall include a Candidate in training for Ordained Local Ministry) desires to transfer to the being a Candidate for the Ordained National Ministry, the

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<sup>22</sup> \* Ascertained currently by the calculator found on the gov.uk website

following procedure shall apply:

- (a) The applicant shall inform the Forum of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;
  - (b) Having established eligibility, the Forum shall arrange for the applicant to undergo an Assessment Panel;
  - (c) At the Assessment Panel attention shall be paid to the applicant's reasons for his or her wish to transfer, in particular his or her gifts of leadership shall be assessed and his or her understanding of Ordained National Ministry shall be examined;
  - (d) If the applicant is accepted by the Assessment Panel as a Prospective Candidate for the Ordained National Ministry then the applicant will thereafter follow the appropriate procedure under Act X 2004, including, though not restricted to, the requirement for nomination by Presbytery as a Candidate for the Ordained National Ministry in terms of sections 7 to 11 of that Act, such requirements for education and training as may be determined by the Forum, and such placements as may be required, having regard to all the circumstances in each particular case;
  - (e) If the applicant is not accepted by the Assessment Panel as a Prospective Candidate for the Ordained National Ministry then the applicant may apply again to transfer to Ordained National Ministry, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.
  - (f) If the applicant is not at any time accepted by the Assessment Panel as a Prospective Candidate for the Ordained National Ministry then such decision shall not affect the applicant's status as an Ordained Local Minister or as a Candidate in training for the Ordained Local Ministry, as the case may be.
  - (g) A decision of the Assessment Panel not to accept an applicant as a Prospective Candidate for the Ordained National Ministry shall be final and binding on the applicant, subject only to subsection (e) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.
- (2) The following additional provision shall apply to Ordained Local Ministers or Candidates in training for Ordained Local Ministry who seek to transfer to being a Candidate for the Ordained National Ministry: The Age Limit applies.
  - (3) In a situation where an Auxiliary Minister desires to transfer to being a Candidate for the Ordained National Ministry, the provisions of section 6(1) and 6(2) of this Act shall apply, as if the words "Auxiliary Minister" were substituted throughout for the words "Ordained Local Minister".

### **Transfer to being a Candidate for the Diaconate**

7. (1) In a situation where a Candidate in training for the Ordained Local Ministry desires to transfer to being a Candidate in training for the Diaconate, the following procedure shall apply:
  - (a) The applicant shall inform the Forum of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;
  - (b) Following a Period of Discernment of three months' duration, the applicant

shall require to undergo Local Review. If the outcome of the Local Review is that the applicant is ready to proceed to Assessment Conference, the applicant shall be assessed for the Diaconate in terms of Act X 2004 applied by section 3 of the Deacons Act (Act VIII 2010);

- (c) If the applicant is accepted by the Assessment Conference as a Prospective Candidate for the Diaconate then the applicant will thereafter follow the appropriate procedure under Act VIII 2010, including, though not restricted to, the requirement for nomination by Presbytery as a Candidate for the Diaconate in terms of sections 7 to 11 of Act X 2004, such requirements for education and training as may be determined by the Forum, and such placements as may be required, having regard to all the circumstances in each particular case;
  - (d) If the applicant is not accepted by the Assessment Conference as a Prospective Candidate for the Diaconate then the applicant may apply again to transfer to Diaconate, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.
  - (e) If the applicant is not at any time accepted by the Assessment Conference as a Prospective Candidate for the Diaconate then such decision shall not affect the applicant's status as a Candidate in training for the Ordained Local Ministry.
  - (f) A decision of the Assessment Conference not to accept an applicant as a Prospective Candidate for the Diaconate shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.
- (2) The following additional provision shall apply to a Candidate in training for the Ordained Local Ministry who seeks to transfer to being a Candidate in training for the Diaconate: The Age Limit applies.

### **Transfer to being a Reader in Training**

8. (1) In a situation where a Candidate in training for Ordained Local Ministry desires to transfer to being a Reader in Training, the following procedure shall apply:
- (a) The applicant shall inform the Forum of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;
  - (b) Following a Period of Discernment of three months' duration, the applicant shall require to undergo Local Review, and at the Local Review a decision shall be made on the applicant's suitability to become a Reader in Training without the need for Assessment Conference;
  - (c) If the applicant is accepted by the Local Review as a Reader in Training then the applicant will thereafter follow the appropriate procedure under section 2 of Act XVII 1992, including, though not restricted to, such requirements for education and training as may be determined by the Forum, and such placements as may be arranged by the Presbytery, having regard to all the circumstances in each particular case;
  - (d) If the applicant is not accepted by the Local Review as a Reader in Training

then the applicant may apply again to transfer to the Readership, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.

- (e) If the applicant is not at any time accepted by the Local Review as a Reader in Training then such decision shall not affect the applicant's status as a candidate in training for the Ordained Local Ministry
- (f) A decision of the Local Review not to accept an applicant as a Reader in Training shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.

9. No transfers from the Ordained Local Ministry or from being a candidate in training for the Ordained Local Ministry, or from the Auxiliary Ministry, shall be possible save as set out in sections 6 to 8 above.

### ***SECTION B - TRANSFERS FROM THE READERSHIP***

#### **Transfer to being a Candidate for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry**

10. (1) In a situation where a Reader in Training, a Reader in service or a retired Reader desires to transfer to be a Candidate for the Ordained Local Ministry, a Candidate for the Diaconate or a Candidate for the Ordained National Ministry, the following procedure shall apply:
- (a) The applicant shall inform the Forum of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;
  - (b) Following a Period of Discernment of three months' duration, the applicant shall require to undergo Local Review. If the outcome of the Local Review is that the applicant is ready to proceed to Assessment Conference, the applicant shall be assessed for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be, in terms of the relevant Act of Assembly;
  - (c) If the applicant is accepted by the Assessment Conference as a Prospective Candidate for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be, then the applicant will thereafter follow the appropriate procedure under the relevant Act of Assembly, including where appropriate, though not restricted to, the requirement for nomination by Presbytery as a Candidate in terms of sections 7 to 11 of Act X 2004, such requirements for education and training as may be determined by the Forum, and such placements as may be required, having regard to the relevant Act of Assembly and to all the circumstances in each particular case;
  - (d) If the applicant is not accepted by the Assessment Conference as a Prospective Candidate for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be, then the applicant may apply again to transfer to the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be, up to three times in total,

but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.

- (e) If the applicant is not at any time accepted by the Assessment Conference as a Prospective Candidate for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be, then such decision shall not affect the applicant's status as a Reader in Training, a Reader in service or a retired Reader, as the case may be.
  - (f) A decision of the Assessment Conference not to accept an applicant as a Prospective Candidate for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be, shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.
- (2) The following additional provisions shall apply to a Reader in Training, a Reader in service or a retired Reader who seeks to transfer to being a Candidate for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be: The Age Limit applies in the case of an application to transfer to being a Candidate for the Diaconate or the Ordained National Ministry. The Age Limit does not apply where the application is to transfer to being a Candidate for the Ordained Local Ministry.
11. No transfers from being a Reader in Training, a Reader in service or a retired Reader shall be possible save as set out in section 10 above.

### ***SECTION C - TRANSFERS FROM THE DIACONATE***

#### **Transfer to being a Candidate for the Ordained National Ministry or the Ordained Local Ministry**

12. (1) The following procedure shall apply in a situation where either (a) a Deacon or (b) a candidate in training for the Diaconate, desires to transfer to being a Candidate for the Ordained National Ministry or a Candidate for the Ordained Local Ministry:
- (a) The applicant shall inform the Forum of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;
  - (b) Following a Period of Discernment of three months' duration, the applicant shall require to undergo Local Review. If the outcome of the Local Review is that the applicant is ready to proceed to Assessment Conference, the applicant shall attend an Assessment Conference and undergo National Assessment for (i) the Ordained National Ministry in terms of section 6 of the Selection and Training for Full-Time Ministry Act (Act X 2004) or (ii) the Ordained Local Ministry in terms of section 8 of the Ordained local Ministry Act (Act IX 2011), as the case may be;
  - (c) If the applicant is accepted by the Assessment Conference as a Prospective Candidate for the Ordained National Ministry or the Ordained Local Ministry, as the case may be, then the applicant will thereafter follow the appropriate procedure under Act X 2004 or Act IX 2011, as the case may be, including, though not restricted to, the requirement for nomination by Presbytery as a Candidate for the Ordained National Ministry or the Ordained Local Ministry in terms of sections 7 to 11 of that Act and such requirements for education



and training as may be determined by the Forum, and such placements as may be required, having regard to all the circumstances in each particular case;

- (d) If the applicant is not accepted by the Assessment Conference as a Prospective Candidate for the Ordained National Ministry or the Ordained Local Ministry, as the case may be, then the applicant may apply again to transfer to the Ordained National Ministry or the Ordained Local Ministry, as the case may be, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognized ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.
  - (e) If the applicant is not at any time accepted by the Assessment Conference as a Prospective Candidate for the Ordained National Ministry or the Ordained Local Ministry, as the case may be, then such decision shall not affect the applicant's status as a Deacon or as a Candidate in training for the Diaconate, as the case may be.
  - (f) A decision of the Assessment Conference not to accept an applicant as a Prospective Candidate for the Ordained National Ministry or the Ordained Local Ministry, as the case may be, shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.
- (2) The following additional provisions shall apply to Deacons or Candidates in training for the Diaconate who seek to transfer to being a Candidate for the Ordained National Ministry or to the Ordained Local Ministry, as the case may be: The Age Limit applies in the case of an application to transfer to being a Candidate for the Ordained National Ministry. The Age Limit does not apply where the application is to transfer to being a Candidate for the Ordained Local Ministry.

### **Transfer to being a Reader in Training**

13. (1) In a situation where a Candidate in training for the Diaconate desires to transfer to being a Reader in Training, the following procedure shall apply:
- (a) The applicant shall inform the Forum of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;
  - (b) Following a Period of Discernment of three months' duration, the applicant shall require to undergo Local Review, and at the Local Review a decision shall be made on the applicant's suitability to become a Reader in Training without the need for Assessment Conference;
  - (c) If the applicant is accepted by the Local Review as a Reader in Training then the applicant will thereafter follow the appropriate procedure under section 2 of Act XVII 1992, including, though not restricted to, such requirements for education and training as may be determined by the Forum, and such placements as may be arranged by the Presbytery, having regard to all the circumstances in each particular case;
  - (d) If the applicant is not accepted by the Local Review as a Reader in Training then the applicant may apply again to transfer to the Readership, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of

the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.

- (e) If the applicant is not at any time accepted by the Local Review as a Reader in Training then such decision shall not affect the applicant's status as a Candidate in training for the Diaconate.
- (f) A decision of the Local Review not to accept an applicant as a Reader in Training shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.

14. No transfers from the Diaconate or from being a Candidate for the Diaconate shall be possible save as set out in sections 12 to 13 above.

#### **SECTION D - TRANSFERS FROM THE ORDAINED NATIONAL MINISTRY**

##### **Transfer to being a Candidate for the Ordained Local Ministry**

15. (1) In a situation where a Candidate for the Ordained National Ministry desires to transfer to being a Candidate for the Ordained Local Ministry, the following procedure shall apply:
- (a) The applicant shall inform the Forum of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;
  - (b) Having established eligibility, the Forum shall arrange for the applicant to undergo an Assessment Panel;
  - (c) At the Assessment Panel attention shall be paid to the applicant's reasons for his or her wish to transfer and his or her understanding of Ordained Local Ministry shall be examined;
  - (d) If the applicant is accepted by the Assessment Panel as a Prospective Candidate for the Ordained Local Ministry then the applicant will thereafter follow the appropriate procedure under Act X 2004 as applied by Act IX 2011, including, though not restricted to, the requirement for nomination by Presbytery as a Candidate for the Ordained Local Ministry in terms of sections 7 to 11 of that Act, such requirements for education and training as may be determined by the Forum, and such placements as may be required, having regard to all the circumstances in each particular case;
  - (e) If the applicant is not accepted by the Assessment Panel as a Prospective Candidate for the Ordained Local Ministry then the applicant may apply again to transfer to Ordained Local Ministry, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.
  - (f) If the applicant is not at any time accepted by the Assessment Panel as a Prospective Candidate for the Ordained Local Ministry then such decision shall not affect the applicant's status as a Candidate for the Ordained National Ministry.
  - (g) A decision of the Assessment Panel not to accept an applicant as a Prospective Candidate for the Ordained Local Ministry shall be final and binding on the applicant, subject only to subsection (e) above and to appeal

to the Ministries Appeal Panel in terms of section 19 below.

### **Transfer to being a Reader in training**

16. (1) In a situation where a Candidate in training for Ordained National Ministry desires to transfer to being a Reader in Training, the following procedure shall apply:
- (a) The applicant shall inform the Forum of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;
  - (b) Following a Period of Discernment of three months' duration, the applicant shall require to undergo Local Review, and at the Local Review a decision shall be made on the applicant's suitability to become a Reader in Training without the need for Assessment Conference;
  - (c) If the applicant is accepted by the Local Review as a Reader in Training then the applicant will thereafter follow the appropriate procedure under section 2 of Act XVII 1992, including, though not restricted to, such requirements for education and training as may be determined by the Forum, and such placements as may be arranged by the Presbytery, having regard to all the circumstances in each particular case;
  - (d) If the applicant is not accepted by the Local Review as a Reader in Training then the applicant may apply again to transfer to the Readership, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.
  - (e) If the applicant is not at any time accepted by the Local Review as a Reader in Training then such decision shall not affect the applicant's status as a Candidate for the Ordained National Ministry.
  - (f) A decision of the Local Review not to accept an applicant as a Reader in Training shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.

### **Transfer to being a Candidate for the Diaconate**

17. (1) In a situation where a Candidate for the Ordained National Ministry desires to transfer to being a Candidate for the Diaconate, the following procedure shall apply:
- (a) The applicant shall inform the Forum of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;
  - (b) Following a Period of Discernment of three months' duration, the applicant shall require to undergo Local Review. If the outcome of the Local Review is that the applicant is ready to proceed to Assessment Conference, the applicant shall be assessed for the Diaconate in terms of Act X 2004 applied by section 3 of the Deacons Act (Act VIII 2010);
  - (c) If the applicant is accepted by the Assessment Conference as a Prospective Candidate for the Diaconate then the applicant will thereafter follow the appropriate procedure under Act VIII 2010, including, though not restricted to, the requirement for nomination by Presbytery as a Candidate for the Diaconate in terms of sections 7 to 11 of Act X 2004, such requirements for

education and training as may be determined by the Forum, and such placements as may be required, having regard to all the circumstances in each particular case;

- (d) If the applicant is not accepted by the Assessment Conference as a Prospective Candidate for the Diaconate then the applicant may apply again to transfer to Diaconate, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.
  - (e) If the applicant is not at any time accepted by the Assessment Conference as a Prospective Candidate for the Diaconate then such decision shall not affect the applicant's status as a Candidate for the Ordained National Ministry.
  - (f) A decision of the Assessment Conference not to accept an applicant as a Prospective Candidate for the Diaconate shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.
- (2) The following additional provision shall apply to Candidates for the Ordained National Ministry who seek to transfer to being a Candidate for the Diaconate: The Age Limit applies.
18. No transfers from the Ordained National Ministry or from being a Candidate for the Ordained National Ministry shall be possible save as set out in sections 15 to 17 above.

### **Appeals**

19. Wherever an appeal to the Ministries Appeal Panel is referred to in this Act, such appeal shall take place as follows:
- (1) The appeal shall proceed in terms of Act VI 2007.
  - (2) The appeal may be brought on one or more of the following grounds: (a) an error in Church law; (b) breach of the principles of natural justice or material irregularity of process; and (c) decision influenced by incorrect material fact.
  - (3) The intention to appeal shall be intimated by the applicant to the Forum within 21 days of the date of the decision of the Assessment Panel, Assessment Conference or Local Review, as the case may be.

### ***Consequential amendments and repeals***

20. The following provisions of other Acts shall be repealed:
- (1) Sections 26, 28 and 29 of the Ordained Local Ministry Act (Act IX 2011).
  - (2) Section 7 of the Readership Act (Act XVII 1992).
  - (3) Section 10 of the Deacons Act (Act VIII 2010).

## SCHEDULE A: ASSESSMENT ROUTES AND TRAINING REQUIREMENTS

Please note the decision of a Local Review is whether to proceed to National Assessment Conference [NAC] except where noted below.

### OLM/AUXILIARY MINISTER

FROM	TO	Discernment	Assessment including outcomes/appeals	Training Requirements	Other information
OLM Candidate	ONM Candidate	N/A (already completed)	Assessment Panel	As determined by the Committee	Must complete by 10 years before UK State Retirement Age
OLM/Auxiliary Minister	ONM Candidate	N/A (already completed)	Assessment Panel	As determined by the Committee	Must complete by 10 years before UK State Retirement Age
<b>OLM/Auxiliary Minister</b>	<b>DCS</b>		<b>NOT POSSIBLE. Ordained to sacramental ministry for life.</b>		
<b>OLM/Auxiliary Minister</b>	<b>Reader</b>		<b>NOT POSSIBLE. Ordained to sacramental ministry for life.</b>		
OLM Candidate	DCS Candidate	3 month placement	Local Review and NAC	As determined by the Committee	Must complete by 10 years before UK State Retirement Age
OLM Candidate	Reader in Training	3 month placement	Local Review (which makes decision)	As determined by the Committee	No age limits

### READER

Reader in training/ in service/ retired	OLM Candidate	3 month placement	Local Review and NAC	As determined by the Committee	No age limits
Reader in training/ in service/ retired	DCS Candidate	3 month placement	Local Review and NAC	As determined by the Committee	Must complete by 10 years before UK State Retirement Age
Reader in training/ in service/ retired	ONM Candidate	3 month placement	Local Review and NAC	As determined by the Committee	Must complete by 10 years before UK State Retirement Age

## DEACON

DCS or DCS in training	ONM Candidate	3 month placement	Local Review and NAC	As determined by the Committee	Must complete by 10 years before UK State Retirement Age
DCS or DCS in training	OLM Candidate	3 month placement	Local Review and NAC	As determined by the Committee	No age limits
<b>DCS</b>	<b>Reader in Training</b>		<b>NOT POSSIBLE. Ordained and Office Holder for life.</b>		
DCS in training	Reader in Training	3 month placement	Local Review (which makes decision)	As determined by the Committee	No age limits

## ONM

ONM in training*	OLM Candidate	N/A (already completed)	Assessment Panel	As determined by the Committee	No age limits
ONM in training*	Reader in Training	3 month placement	Local Review (which makes decision)	As determined by the Committee	No age limits
ONM in training*	DCS Candidate	3 month placement	Local Review and NAC	As determined by the Committee	Must complete by 10 years before UK State Retirement Age
ONM	OLM Candidate		<b>No change in status required.</b>		
ONM	Reader in Training		<b>NOT POSSIBLE. Ordained to sacramental ministry for life.</b>		
ONM	DCS Candidate		<b>NOT POSSIBLE. Ordained to sacramental ministry for life.</b>		

\*ie a Candidate in terms of Act X 2004

## **VI INCOME PROTECTION AND ILL HEALTH ACT (ACT VI 2019) (AS AMENDED BY ACT IV 2020)**

*Edinburgh, 23 May 2019, Session 17*

The General Assembly hereby enact and ordain as follows:

### **Definitions and Interpretation**

1. For the purposes of this Act and the Schedule attached hereto:
  - (a) “absence” shall mean absence from duties through illness or ill health and “absent” shall be construed accordingly; absence for any other reason, including compassionate leave or study leave, shall be notified to the Presbytery and, in all cases except where this is not reasonably practicable, shall be subject to the permission of the Presbytery, but shall not be otherwise subject to the provisions of this Act;
  - (b) *Definition of “Council” deleted when the Ministries Council became the “Faith Nurture Forum”;*
  - (ba) “Forum” shall mean the Faith Nurture Forum;
  - (c) “Ill Health Committee” shall mean a committee of three persons, comprising the Presbytery Clerk (or his or her appointed substitute), one member of the Presbytery of the bounds appointed for a fixed term to that office and one staff member of the Forum;
  - (d) “Income Protection” shall mean insurance, with a deferred period of seventy eight weeks, to protect against loss of income due to long term ill health;
  - (e) “Income Protection Provider” shall mean the Church’s income protection provider for ministers from time to time;
  - (f) “Medical Assessment” shall mean an assessment from the Income Protection Provider of medical information supplied to the Income Protection Provider, which Medical Assessment may be indicative or final and which Medical Assessment shall give a view as to whether or not the minister is at that time (i) able or unable to perform his or her current role, and (ii) eligible or ineligible for Income Protection;
  - (g) a “minister” shall mean a minister inducted to a charge;
  - (h) “OHP Report” means a report prepared by an Occupational Health Physician appointed by the Forum as to the ability of the minister to perform his or her current role;
  - (i) the phrase “return(s) to work” shall include a phased return;
  - (j) “Trigger Date” means the date on which a minister’s absence has extended to six months continuously, or has totalled 300 days out of any twenty two month period;
  - (k) “UK State Pension Age” shall mean a person’s UK State Pension Age as determined at the relevant time by the UK Government’s calculations<sup>23</sup>;
  - (l) Where months are referred to, that means calendar months.
  - (m) The headings in this Act are for information only and do not form part of this Act.

### **Procedure for notifying illness**

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<sup>23</sup> Ascertained currently by the calculator found on the gov.uk website

2. (1) Whenever a minister is absent from work due to illness, he or she shall inform the Forum in terms of the Procedure appended as Schedule A to this Act.
2. (2) Failure to fulfil the requirements of Schedule A shall be intimated to the Presbytery, which may consider whether the minister is in desertion of his or her charge or whether any other matter of discipline has arisen.
3. The Presbytery shall be informed by its Clerk of the minister's absence (a) if an Interim Moderator is to be appointed, or (b) if the Presbytery requires to take any action in support or superintendence of the minister's congregation(s).

### **Pastoral support**

4. The Forum and the Presbytery shall work together throughout any period of absence of the minister to offer pastoral support, assistance and advice to the minister and to the affected congregation(s).
5. In relation to pastoral support of the minister, the following arrangements shall apply:
  - (1) Where an absence continues for three months or there have been several recent absences, the minister and the Forum shall consult on the nature of his or her illness, and the extent to which it might be work-related;
  - (2) The Forum may, through its staff members or through external support services, offer to provide the minister with access to support interventions appropriate to the circumstances of the minister's absence, which may include provision of reasonable adjustments, coaching, counselling, supervision, therapy, Access to Work provisions, and/or phased return.

### **Ill Health Committee**

6. A Presbytery shall form an Ill Health Committee as required to deal with matters arising under this Act. Where a Committee is to be formed, the Presbytery shall request confirmation from the Forum of the name of the staff member to appoint.

### **Minister's ill health – procedure for ministers eligible for Income Protection**

7. (1) Where the minister is of an age such that after Medical Assessment he or she might be eligible to receive Income Protection, the procedure set out in subsections 7(2) to (4) below shall apply.
7. (2) Following the Trigger Date:
  - (a) the Forum shall as soon as practicable contact the minister to advise him or her of the terms of this Act and shall contact the Presbytery of the bounds to confirm that the provisions of this Act have been triggered;
  - (b) the Forum shall as soon as practicable make a referral in respect of the minister to the Income Protection Provider, shall supply and facilitate provision of the required information to the Income Protection Provider and shall request that an indicative Medical Assessment on the minister is prepared; the minister shall co-operate in the preparation of any Medical Assessment and shall if required promptly sign any mandate required for the release of medical files and/or information to enable preparation of any Medical Assessment;
  - (c) once the indicative Medical Assessment is available, the Ill Health Committee shall meet with the minister as soon as possible, to discuss the



- indicative Medical Assessment and to consider whether or not the minister is likely to be able to return to work within six months after the Trigger Date;
- (d) subject to section 7(4), if the minister returns to work no later than six months after the Trigger Date then no further process shall occur under this Act at that time;
  - (e) if the minister does not return to work by the date six months after the Trigger Date, and does not choose to demit his or her charge with effect from a date which is at latest nine months after the Trigger Date, the Ill Health Committee shall, as soon as practicable, report to Presbytery that the pastoral tie should be severed with effect from the date nine months after the Trigger Date, save that the Ill Health Committee shall have discretion to report otherwise in the following situations:
    - (i) the minister is undergoing medical treatment and the prognosis is that he or she will be able to return to work imminently; or
    - (ii) the absence of the minister has resulted from more than one unrelated health cause in succession and it has not been possible to carry out a Medical Assessment for that reason.
  - (f) Following receipt of the Ill Health Committee's report under subsection 7(2)(e), the Presbytery shall meet within twenty one days to implement it. The outcome of the Presbytery meeting shall be intimated without delay to the minister.
  - (g) If the Presbytery does not sever the pastoral tie, it shall meet again at regular intervals thereafter to consider whether the pastoral tie should be severed. For the avoidance of doubt, if a minister is still absent at the date which is eighteen months after the Trigger Date, the Presbytery shall sever the pastoral tie with effect from eighteen months after the Trigger Date.
- (3) For the avoidance of doubt, the Presbytery may sever the pastoral tie whether or not the minister is, in terms of the final Medical Assessment, eligible for Income Protection.
  - (4) Where a minister returns to work in terms of this section 7 such that no further process occurs at that time, but then is absent again within the twenty two month period following the date of his or her return to work, absence which occurs within any rolling twenty two month period will be taken into account for the purposes of calculating a new Trigger Date.

#### **Minister's ill health – procedure for ministers ineligible for Income Protection**

- 8. (1) Where the minister is of an age such that he or she will not be eligible to receive Income Protection, the procedure set out in subsections 8(2) and (3) below shall apply.
- (2) Following the Trigger Date:
  - (a) the Forum shall as soon as practicable contact the minister to advise him or her of the terms of this Act and shall contact the Presbytery of the bounds to confirm that the provisions of this Act have been triggered;
  - (b) the Forum shall as soon as practicable make a referral in respect of the minister to an Occupational Health Physician appointed by the Forum and shall request that an OHP Report on the minister is prepared; the minister shall co-operate in the preparation of the OHP Report and shall if required

- promptly sign any mandate required for the release of medical files and/or information to enable preparation of the OHP Report;
- (c) once the OHP Report is available, the Ill Health Committee shall meet with the minister as soon as possible, to discuss the OHP Report and to consider whether or not the minister is likely to be able to return to work within six months after the Trigger Date;
  - (d) subject to section 8(3), if the minister returns to work no later than six months after the Trigger Date then no further process shall occur under this Act at that time;
  - (e) if the minister does not return to work by the date six months after the Trigger Date, and does not choose to demit his or her charge with effect from a date which is at latest nine months after the Trigger Date, the Ill Health Committee shall, as soon as practicable, report to Presbytery that the pastoral tie should be severed with effect from the date nine months after the Trigger Date, save that the Ill Health Committee shall have discretion to report otherwise in the following situation:
    - (i) the minister is undergoing medical treatment and the prognosis is that he or she will be able to return to work imminently.
  - (f) Following receipt of the Ill Health Committee's report under subsection 8(2)(e), the Presbytery shall meet within twenty one days to implement it. The outcome of the Presbytery meeting shall be intimated without delay to the minister.
  - (g) If the Presbytery does not sever the pastoral tie, it shall meet again at regular intervals thereafter to consider whether the pastoral tie should be severed. For the avoidance of doubt, if a minister is still absent at the date which is eighteen months after the Trigger Date, the Presbytery shall sever the pastoral tie with effect from eighteen months after the Trigger Date.
- (3) Where a minister returns to work in terms of this section 8 such that no further process occurs at that time, but then is absent again within the twenty two month period following the date of his or her return to work, absence which occurs within any rolling twenty two month period will be taken into account for the purposes of calculating a new Trigger Date.

### **Stipend and Income Protection**

9. (1) A minister who is absent in terms of this Act and who is eligible to be assessed for Income Protection benefit shall be considered as follows:
- (a) He or she shall be entitled to receive payment of an amount equivalent to (i) full stipend appropriate to the charge and years of service at the date absence commenced, (ii) the appropriate employer's pension contribution, and (iii) if applicable, Car Allowance, all subject to deduction of tax and National Insurance contributions, for one or other of the following periods:
    - (A) where this Act is triggered by six months' continuous absence, a maximum period of eighteen months in total from when the absence commenced, or
    - (B) where this Act is triggered by an absence of 300 days out of a twenty-two-month period, during that absence and then for a maximum further period of twelve months from the Trigger Date.

- (b) Subject to sections 9(1)(c) and 9(1)(d), where such a minister is found, in terms of the final Medical Assessment, to be eligible for Income Protection, he or she shall be entitled to receive payment of an amount equivalent to one third of stipend appropriate to the charge and years of service at the date absence commenced (subject to appropriate deductions) plus the appropriate employer's pension contribution. Payment will begin on:
    - (i) where this Act is triggered by six months' continuous absence, the date eighteen months after absence commenced, or
    - (ii) where this Act is triggered by an absence of 300 days out of a twenty-two-month period, the date twelve months after the Trigger Date.
 Payment will continue until the minister is assessed by the Income Protection Provider as able to return to work, or as no longer eligible for Income Protection, or until the date of the minister's UK State Pension Age, whichever of the three is earliest.
  - (c) During the whole time that a minister is in receipt of payments in terms of this section 9(1), the minister shall require to provide regular medical certificates (fit notes) to the Forum.
  - (d) The minister's eligibility for Income Protection will be determined according to the rules and procedures of the Income Protection Provider as they exist from time to time, which rules may include regular reassessment of the minister as to eligibility.
  - (e) The amount payable to the minister in terms of this section 9(1) may be reduced if income over a certain amount (determined by the Income Protection Provider) is earned by the minister while he or she is in receipt of payments under section 9(1).
- (2) A minister who is absent in terms of this Act and who is not eligible to be assessed for Income Protection benefit shall be considered as follows:  
 He or she shall be entitled to receive an amount equivalent to (i) full stipend appropriate to the charge and years of service at the date absence commenced, (ii) the appropriate employer's pension contribution, and (iii) if applicable, Car Allowance, all subject to deduction of tax and National Insurance contributions, for one or other of the following periods:
- (i) where this Act is triggered by six months' continuous absence, a maximum period of fifteen months in total from when the absence commenced, or
  - (ii) where this Act is triggered by an absence of 300 days out of a twenty-two-month period, during that absence and then for a maximum further period of nine months from the Trigger Date;
- (3) Notwithstanding sections 9(1) and (2), the Forum may agree that a minister who is absent in terms of this Act may, once payments under section 9(1) or (2) have expired and where the pastoral tie has not been severed, receive payment equivalent to one-third of stipend appropriate to the charge and years of service at the date absence commenced (subject to appropriate deductions) and employer's pension contribution, for such period as it may determine is appropriate, in its sole discretion, in the following circumstances:
- (a) the minister falls under section 8(1) and the Presbytery has not severed the pastoral tie because the minister is undergoing medical treatment and the prognosis is that he or she will be able to return to work imminently; or

- (b) the absence of the minister has resulted from more than one unrelated health cause in succession and it has not yet been possible to carry out a Medical Assessment for that reason; or
- (c) the minister is awaiting the outcome of a review/appeal under section 12(2) or 12(3);

Provided always that in no circumstances shall any payments be made beyond the date which is the earlier of (i) twenty-four months from when absence commenced or (ii) eighteen months from the Trigger Date.

### **Manse**

10. (1) Wherever this Act applies and results in the minister demitting his or her charge or in the pastoral tie being severed, then subject to subsections (2)(a) and (b) below, the minister shall be entitled to remain in his or her manse for one or other of the following periods:
- (a) where this Act is triggered by six months' continuous absence, for a maximum period of fifteen months from the date when absence commenced, or
  - (b) where this Act is triggered by an absence of 300 days out of a twenty two month period, during that absence and then for a further period of nine months from the Trigger Date.
- (2) (a) Exceptionally, where the Ill Health Committee deems it to be necessary, the minister may remain in occupation of the manse for a further period of up to three months after the date ascertained by subsection 10(1) and that under the General Trustees' Standard Conditions for Occupation of a Manse on a Caretaker basis<sup>24</sup>.
- (b) Alternatively, where subsections 7(2)(g) or 8(2)(g) apply, the minister may remain in occupation of the manse under the General Trustees' Standard Conditions for Occupation of a Manse on a Caretaker basis for one or other of the following periods:
- (i) where this Act is triggered by six months' continuous absence, for a maximum period of twenty seven months from the date when absence commenced, or
  - (ii) where this Act is triggered by an absence of 300 days out of a twenty two month period, during that absence and then for a further period of twenty one months from the Trigger Date.

### **Confidentiality**

11. The Ill Health Committee shall conduct its proceedings and hold meetings in private and shall treat all its information and discussions in confidence. Meetings shall be minuted and the minute held in a Record Apart. For the avoidance of doubt, the Ill Health Committee shall retain in confidence all Medical Assessments received and shall not, without consent of the minister, divulge details to any person other than the minister.

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<sup>24</sup> The minister shall be entitled to make application at any time following the Trigger Date for assistance with housing to the Housing and Loan Fund who will determine according to its own criteria and rules, whether assistance can be provided to the minister.

## **Appeals**

12. (1) An appeal against a decision of the Presbytery taken in terms of section 7(2)(f) or (g) or 8(2)(f) or (g) of this Act may be brought by a minister on the following grounds: (a) material irregularity of process; or (b) decision influenced by incorrect material fact. The intention to appeal must be intimated to the Principal Clerk by the minister within fourteen days of the date on which the Presbytery's decision was intimated to the minister. The appeal shall be heard by the Ministries Appeal Panel in terms of the Ministries Appeal Panel Act (Act VI 2007). For the avoidance of doubt:
- (a) no appeal may be brought as to the terms of an indicative Medical Assessment; and
  - (b) the terms of a final Medical Assessment or of an OHP Report may only be appealed as referred to in sections 12(2) and 12(3) below respectively.
- (2) A minister who is aggrieved at the terms of a final Medical Assessment may ask the Forum to invoke the Income Protection Provider's appeals process, in which case the Forum, if it agrees, may do so, and the decision of the Income Protection Provider on the matter after the appeals process has been completed shall be final. To initiate this process, the minister must make a written request to the Forum to invoke the Income Protection Provider's appeals process within fourteen days of receiving the final Medical Assessment.
- (3) A minister who is aggrieved at the terms of an OHP Report may contact the Ill Health Committee to request that the Ill Health Committee review the terms of the OHP Report with the Occupational Health Physician but the report of the Ill Health Committee to the Presbytery on the matter after such review shall be final. To initiate this process, the minister must make a written request to the Ill Health Committee within fourteen days of receiving the OHP Report.
- (4) No appeals save as stated in sections 12(1), 12(2) and 12(3) shall be available in respect of matters covered by this Act.

## **Registration of Ministries**

13. Where in terms of this Act a minister demits his or her charge or a pastoral tie is severed, the minister shall thereafter be registered on the Register of Ministry in Category **R** or Category **I**, the decision as to which category being determined by the Ill Health Committee or the Presbytery, as appropriate. The normal rights of appeal against the decision of the Ill Health Committee or the Presbytery, as the case may be, (as set out in the Registration of Ministries Act (Act II 2017)) shall be available to the minister.

## **Meetings**

14. Meetings between the Ill Health Committee and the minister may take place by conference call, video conference call or other appropriate medium.

## **Commencement of this Act**

15. This Act shall come into force when passed. From that date it shall apply to any minister who is of an age such that he or she will not be eligible to receive income protection in terms of existing arrangements made by the Forum. For a minister who is of an age to

fall within section 7 of this Act, it shall apply to any minister whose Trigger Date is on or after 1 July 2020, and prior to that date such a minister shall remain subject to the terms of the Long Term Illness of Ministers Act (Act XV 2002).

**Repeal**

16. The Long Term Illness of Ministers Act (Act XV 2002) shall remain in force until such time as all ministers who are absent are being assessed in terms of this Act, at which point it shall be repealed.

## **Schedule A**

### **Procedure for notifying a minister's absence to the Forum**

1. (1) Whenever a minister is absent through illness, then such minister, or his or her appointed nominee, shall, within seven days of the first day of absence, notify the Secretary of the Forum in writing.  
  
(2) Where an absence continues for more than seven days, the minister, or his or her appointed nominee, shall, within fourteen days of the first day of absence, provide a medical certificate to the Secretary of the Forum.  
  
(3) The minister, or his or her appointed nominee, shall continue to provide medical certificates covering the whole period of absence, and a final medical certificate showing the date of return to work, throughout the whole period of absence, each such medical certificate to be sent to the Secretary of the Forum within seven days of its date of issue.
2. Whenever the Forum is initially informed by a minister of his or her absence due to illness, it shall notify both the Clerk to the Presbytery of the bounds and the Payroll Unit of the General Treasurers' Department.
3. The Forum shall maintain the appropriate absence records and shall provide information to the Presbytery upon request.





# PRESBYTERY MISSION PLAN ACT (ACT VIII 2021) (AS AMENDED BY ACTS VII AND XII 2022 AND III AND IV 2024)

*Edinburgh, 26 May 2021, Session 8*

**In requiring Presbyteries to plan mission within their bounds, the Church of Scotland seeks to:-**

- underscore the Church's priority as participating in Christ's mission.
- set down a definition of that mission.
- provide a framework for a Presbytery to express that priority in forming a rolling five-year Mission Plan.
- enable a group of Presbyteries anticipating union to work together on a Mission Plan.
- ensure that a Presbytery makes best use of the ministry posts allocated to it by the General Assembly.
- insist that a Presbytery take decisions about the future of Church buildings.
- provide a range of ways in which a Presbytery may structure and resource Church life.
- engage the Faith Action Programme Leadership Team and the General Trustees in assisting Presbytery in their planning.

**Accordingly, the General Assembly hereby enact and ordain:**

## 1. DEFINITIONS

1.1 For the purposes of this Act the following terms shall have the meanings hereby assigned to them:-

- a) "Adjustment" shall mean a form of adjustment set out in section 7, sub-sections (1) to (11);
- b) An "appointment" shall mean an appointment to a post other than an inducted Minister detailed within the Mission Plan and which is either counted within the allocation of ministry posts funded by the Parish Staffing Fund and allocated to that Presbytery by the General Assembly or is funded locally by the congregation and/or the Presbytery;
- c) "Approved Mission Plan" shall mean a Mission Plan that has initially been approved by the Presbytery, FAPLT and the General Trustees and which thereafter has been annually and five-yearly evaluated and developed in accordance with this Act;
- d) "Basis of Adjustment" shall mean the written terms upon which Adjustment is implemented;
- e) A "charge" shall mean a sphere of pastoral duty to which a minister is inducted and may include a Team Ministry Charge as referred to in section 7(10);
- f) A "congregation" shall mean an association of persons in a parish whose names are on the Communion Roll and Adherents' Roll and who are under the pastoral oversight of a minister

- or ministers (or an Interim Moderator) and a Kirk Session, for Christian worship, fellowship, instruction, Mission and service;
- g) “ecclesiastical building” shall mean any property pertaining to a congregation or agency whether or not in use for the purposes of the congregation or agency and in particular but without prejudice to the foregoing generality any Church, Church Hall, Manse, house for an assistant or associate minister, Church Officer’s house, retirement house, ancillary building or outbuilding or property which is let;
- h) A “Financial Board” shall mean the body responsible for managing the finances of a congregation, including a Congregational Board, Deacons’ Court, Committee of Management and Kirk Session;
- i) the “Five Marks of Mission” shall mean:  
The mission of the Church is the mission of Christ:
1. To proclaim the Good News of the Kingdom
  2. To teach, baptise and nurture new believers
  3. To respond to human need by loving service
  4. To seek to transform unjust structures of society, to challenge violence of every kind and pursue peace and reconciliation
  5. To strive to safeguard the integrity of creation and sustain and renew the life of the earth;
- j) “FAPLT” shall mean the Faith Action Programme Leadership Team;
- k) “Guidance” shall mean the Guidance accompanying this Act as referred to in section 13; *(to be developed collaboratively among FAPLT, GTs and LQC)*
- l) “Historic Properties” shall mean those buildings specified by the General Trustees as being of special historic or architectural interest which are outstanding examples of a particular period, style or building type and “Historic Property” shall be construed accordingly;
- m) “MDS” shall mean Ministries Development Staff, and refers to appointments of employees by FAPLT;
- n) “Mission” shall be construed as meaning those aspects of church life set out in the Five Marks of Mission supplemented by the Guidance;
- o) “Mission Plan” shall mean a Mission Plan formulated in terms of section 2 below and in the form of the template set out in Guidance;
- p) “Mission Plan Review Panel” shall mean the Panel described in the Schedule;
- q) The “Presbytery” shall mean the Presbytery of the bounds where the charge, agency, partnership or Mission initiative is located or online activity is rooted; the word “Presbytery” may be construed so as to include a group of Presbyteries, where appropriate;
- r) The “shape of church life” shall mean the arrangements of congregations, agencies, ministries, partnerships initiatives and others, including their physical resources and online activities, all under the supervision of the Presbytery;
- s) “vacancy” shall mean the state in which a charge finds itself when it is without an inducted minister and shall include the situation of a prospective vacancy where an Interim

Moderator has been appointed under section 6(1) of the Vacancy Procedure Act (Act VIII 2003), and “vacant” shall be construed accordingly.

## 2. THE PRESBYTERY MISSION PLAN

2.0.1 Each Presbytery shall be required to have an Approved Mission Plan in place in terms of this Act by 31 December 2022.

2.0.2 It shall be in order for a group of Presbyteries anticipating union to present to FAPLT and the General Trustees a shared draft Mission Plan in terms of this Act. For this to become an Approved Mission Plan in terms of this Act it must have been approved at a meeting of each of the individual Presbyteries and then the final approval of FAPLT and the General Trustees must be obtained.

### 2.1 CONTENT OF A MISSION PLAN

2.1.1 A Mission Plan shall describe how the Church of Scotland’s engagement with Christ’s Mission is to be shaped and resourced in the following five years and to that end shall demonstrate how the Presbytery will:-

- i) ensure that the life of the Church of Scotland is shaped around Mission and adequately reflects the outcomes of Local Church Review and ideas for local mission;
- ii) sustain the commitment to a territorial ministry as described in the Third of the Articles Declaratory appended to the Church of Scotland Act 1921 and affirmed in Declaratory Act V 2010 including its commitment to ecumenical working;
- iii) make appropriate use of such ministry posts as may be permitted by the General Assembly so that the number of post holders in each Presbytery conforms to the numbers and timescales set by the General Assembly;
- iv) ensure that new ways of being Church, other than stipendiary Ministers of Word and Sacrament or traditional MDS appointments, are reflected in the Mission Plan;

2.1.2 In doing so the Presbytery will categorise each ecclesiastical building as either:-

(a) to be retained beyond the five years from the date of the Approved Mission Plan, or

(b) to be sold, let or otherwise disposed of by a specified date which is within five years from the date at which the ecclesiastical building is first categorised as (b).

2.1.3 In order to arrive at these categorisations the Presbytery shall use, and reference, resources and advice provided by the General Trustees, including the Land and Buildings Toolkit (or any successor guidance issued by the General Trustees).

2.1.4 In the case of a (b) categorisation the General Trustees shall be empowered, at their discretion and in consultation with FAPLT, to refuse any application made in respect of that building in terms of the Work at Ecclesiastical Buildings Regulations (Regs I 1998) (as amended from time to time).

2.1.5 The Mission Plan shall also record those ecclesiastical buildings within the Presbytery which are Historic Properties, regardless of whether they are categorised as (a) or (b).

## 2.2 PROCESS FOR PREPARING AND APPROVING A MISSION PLAN

**2.2.1 Mission Plan is prepared:** A Presbytery shall prepare a draft Mission Plan, in consultation with FAPLT and the General Trustees. To facilitate the Presbytery's preparation of the Mission Plan, FAPLT shall, as part of its input, intimate the total number of ministry posts approved by the General Assembly as referred to at section 2.4.1 below, and the General Trustees shall, as part of their input, provide such information as is available as to suitability of the ecclesiastical buildings for Mission. In the course of its development the Presbytery shall at regular intervals share the draft Mission Plan with FAPLT and the General Trustees. The Presbytery, FAPLT and the General Trustees shall work together to develop the Plan, with FAPLT and the General Trustees offering advice and guidance on the framing of the Mission Plan. Presbytery shall take into account the Code of Practice contained in the Guidance.

**2.2.2 Presbytery meets to approve the Mission Plan:** The completed draft Mission Plan shall be put to a full meeting of the Presbytery for approval. When a Presbytery has voted to approve a Mission Plan, or to approve a Mission Plan following its five-yearly evaluation and development, the Presbytery's process shall be sisted and an extract minute of the decision and a copy of the Mission Plan document shall be sent to FAPLT and the General Trustees for their final approval.

**2.2.3 Approval of the Mission Plan by FAPLT and the General Trustees:** Upon receipt of the Mission Plan, FAPLT and the General Trustees shall consider whether the Mission Plan conforms to section 2.1 above and thus whether FAPLT and the General Trustees can grant final approval of the Mission Plan, or whether further discussion with the Presbytery is required. If in these discussions Presbytery representatives agree to possible amendments then the amended Mission Plan will be resubmitted to a full meeting of Presbytery for its final approval.

**2.2.4 Possible referral to Mission Plan Review Panel for assistance:** Discussion on the Mission Plan among the Presbytery, FAPLT and the General Trustees shall continue until final approval of the Mission Plan is given by FAPLT and the General Trustees. If final approval is not in place within a period of three calendar months after FAPLT's and the General Trustees' receipt of the Mission Plan, the matter shall be referred to the Mission Plan Review Panel by the Presbytery and the Panel shall assist the parties to resolve the matter, so that final approval of the Mission Plan can be given.

**2.2.5 Extract minute of final approvals to Presbytery:** Once both FAPLT and the General Trustees have given final approval of the Mission Plan, FAPLT shall send an extract minute to Presbytery indicating that FAPLT and the General Trustees have granted final approval of the Mission Plan.

**2.2.6 The Approved Mission Plan:** When FAPLT's and the General Trustees' final approval of the Mission Plan is announced and recorded at a meeting of the Presbytery, the Mission Plan will then

be considered an Approved Mission Plan and, subject to the right of review referred to at section 3 below, steps shall be taken by the Presbytery towards its implementation.

## 2.3 ANNUAL EVALUATION AND DEVELOPMENT OF A MISSION PLAN

2.3.1 Each Presbytery shall carry out a process of annual evaluation and development of its Mission Plan so as to maintain in rolling form an accurate, comprehensive and up to date Mission Plan for the shape of church life in the next five years in that Presbytery.

2.3.2 The process of annual evaluation and development of the Mission Plan shall be initiated by the Presbytery, and shall proceed in consultation with FAPLT and the General Trustees but the approval of FAPLT and of the General Trustees to the Mission Plan shall not be required. Once final approval of the Mission Plan following annual evaluation and development is recorded at a meeting of the Presbytery, the Mission Plan shall be re-dated to cover the next five years, becoming the Presbytery's Approved Mission Plan, and an extract minute of the Presbytery's decision and a copy of the Approved Mission Plan shall be sent to FAPLT and the General Trustees.

2.3.3 If a Presbytery fails to carry out an annual evaluation and development of its Mission Plan within a reasonable period of when it was due, a referral may be made by the Principal Clerk to the Presbytery Review Committee.

## 2.4 FIVE-YEARLY EVALUATION AND DEVELOPMENT OF A MISSION PLAN

2.4.1 Each Presbytery shall also carry out a process of five-yearly evaluation and development of its Mission Plan so as to maintain in rolling form an accurate, comprehensive and up to date Mission Plan for the shape of church life in the next five years in that Presbytery.

2.4.2 In the year when a five-yearly evaluation and development of a Mission Plan takes place, this process shall replace the annual evaluation and development process set out in section 2.3.

2.4.3 The process of five-yearly evaluation and development of the Mission Plan shall be initiated by the Presbytery, and shall proceed in consultation with FAPLT and the General Trustees. Thereafter approval by the Presbytery, and final approval by FAPLT and General Trustees shall be sought and this process shall follow the procedure set out above at section 2.2, save that the period to achieve final approval of the Plan shall be one month rather than three months. After such five-yearly evaluation and development, final approval and recording of that approval at a meeting of the Presbytery, the Mission Plan shall be re-dated to cover the next five years and that shall become the Presbytery's Approved Mission Plan.

2.4.4 The first five-yearly evaluation and development of each Mission Plan shall take place five years after a Mission Plan first became an Approved Mission Plan in terms of section 2.2.6, and thereafter a five-yearly evaluation and development shall take place every five years.

## 2.5 OTHER PROVISIONS AS TO MISSION PLANS

2.5.1 FAPLT shall bring annually to the General Assembly for approval the proposed total number of ministry posts to be funded by the Parish Staffing Fund, allocated among the Presbyteries, in each of the next five years, so that there is a five-year rolling plan for such allocations.

2.5.2 In the first Approved Mission Plan, and in every subsequent Approved Mission Plan formed after the process of annual or five-yearly evaluation and development and approval, the provisions of section 2.1.1 (iii) shall apply.

2.5.3 For the avoidance of doubt, in including in a Mission Plan provision for Adjustment to achieve the Mission Plan goals, the Presbytery shall not be considered to be affecting the rights of an inducted Minister. The Presbytery shall have the right to call a meeting of the relevant Kirk Session(s) and the congregation(s) to discuss the Mission Plan with or without consent of the inducted minister. The inducted minister shall not be entitled to attend and speak at such a meeting, but the Presbytery may choose to meet separately with the inducted minister to discuss the Mission Plan goals.

### 3. REVIEW

3.1 Within fourteen days of the date of the Presbytery meeting at which one of the following has been recorded:

(a) the agreement of FAPLT and the General Trustees to the Mission Plan; or

(b) the approval by Presbytery to an annual evaluation and development of the Mission Plan; or

(c) the agreement of FAPLT and the General Trustees to a five-yearly evaluation and development of a Mission Plan;

it shall be open to any twelve or more members of the Presbytery or to any Kirk Session within its bounds to seek a review of the process used by the Presbytery in preparing and approving the Mission Plan (or its annual or five-yearly evaluation or development, as the case may be). This shall be done by sending intimation to the Principal Clerk (who in turn shall inform FAPLT and the General Trustees in the case of a first agreement to a Mission Plan or a five-yearly evaluation and development of a Mission Plan).

3.2 When a review has been intimated: any provision of the Mission Plan which is not affected by a request for review may be progressed under section 4 while the review is pending.

3.3 The review may only be requested on the grounds set out in the Schedule to this Act.

3.4 Such a review shall be conducted by a Mission Plan Review Panel in accordance with provisions of the Schedule to this Act.

### 4. IMPLEMENTATION OF THE MISSION PLAN

4.1 After achieving the final approval of FAPLT and the General Trustees to the Mission Plan (or the approval by Presbytery to an annual evaluation and development of the Mission Plan, or of FAPLT and the General Trustees to a five-yearly evaluation and development of a Mission Plan, as the case may be), and when there are no outstanding requests for review to be heard by the Mission Plan Review Panel, the Presbytery shall proceed to implement the Approved Mission Plan.

4.2 A minister inducted to a charge on a Basis of Unrestricted Tenure, whose charge is one where the Approved Mission Plan anticipates adjustment at the next vacancy, shall, if so requested, participate in a review conducted by the Presbytery, to consider if any revised arrangements can be agreed with the minister to facilitate the implementation of the Approved Mission Plan.

## 5. PRESBYTERY MISSION PLANS AND PERMISSION TO CALL A MINISTER OR TO MAKE AN APPOINTMENT

5.1 A vacant charge in respect of which an Approved Mission Plan exists may be given permission to call a minister, subject to the provisions of Act VIII 2003, and further provided that:

(a) the Mission Plan provides that no Adjustment is required before a new minister is inducted, or

(b) the Adjustment described in the Approved Mission Plan has been fully implemented, or

(c) the Presbytery has already negotiated a Basis for the Adjustment described in the Approved Mission Plan and is able to implement it before sustaining a call and there is no outstanding request for review to be heard by the Mission Plan Review Panel.

5.2 A vacant charge shall not be given permission to call a minister if:

(a) a Basis of Adjustment has not yet been agreed between the Presbytery and the congregation, and/or

(b) there is any outstanding request for review to be heard by the Mission Plan Review Panel, and/or

(c) there are Mission Plan issues yet to be resolved in terms of this Act.

5.3 Appointments may also be made to other posts (MDS and/or Presbytery and/or locally funded posts) described in the Mission Plan providing that:

(a) there is funding in place for the envisaged duration of the appointment,

(b) the job description and contract of employment have been approved by the Human Resources department in the national office in order to ensure consistency and fairness across Presbyteries, and

(c) Presbytery shall satisfy itself as to the status and good standing of any minister of another denomination appointed in terms of this section 5.3.

## 6. SUSPENSION OF THE IMPLEMENTATION OF THE MISSION PLAN

6.1 On cause shown, and subject to the right of any twelve or more members of Presbytery or a Kirk Session to request review by the Mission Plan Review Panel on the grounds set out in the Schedule within fourteen days of the date of suspension, the Presbytery, FAPLT or the General Trustees may suspend the implementation of the Mission Plan in part or whole.

6.2 When this happens, the Presbytery and FAPLT and the General Trustees shall strive to reach agreement with interested parties as soon as possible to allow the Mission Plan to be reinstated and implemented.

6.3 The Presbytery shall not permit a congregation to call a minister or an appointment to be made in terms of the Mission Plan when such a post is covered by the suspended section(s) (or as the case may be, whole) of the Mission Plan.

## 7. IMPLEMENTATION OF THE MISSION PLAN THROUGH ADJUSTMENT AND OTHER ARRANGEMENTS

7.0 The Mission Plan may specify any of the following forms of Adjustment and other arrangements:—

### (1) UNION

Two or more congregations may be united to form one congregation under the Unitary Constitution, and such union shall involve the union of charges, parishes, Kirk Sessions, Financial Boards, property and funds and, except in special circumstances where provision is made to the contrary in the Basis of Union, all congregational agencies and organisations.

### (2) LINKING

Two or more charges may be linked to form one charge in terms of a Basis of Linking, so that the congregations are served by one ministry, the constitutions of the said congregations being in no other way affected.

### (3) DEFERRED UNION OR DEFERRED LINKING

(a) When for any reason it is not possible to unite a vacant congregation with another congregation under the minister of the other congregation, the Presbytery may decide to unite them on the understanding that the implementation of such decision shall be deferred to take place as soon as practicable after that minister's interest has terminated.



(b) The Basis of Deferred Union shall provide (i) that the congregations to be united shall elect a minister who shall be inducted in the first instance as minister of the vacant congregation, and (ii) that on the termination of the other minister's interest the Union shall immediately be effective under the minister so elected and inducted.

(c) If another vacancy occurs in the originally-vacant congregation before the termination of the other minister's interest, the Basis of Deferred Union shall remain in force and the congregations shall elect another minister as in (b) above; subject to the proviso that the Presbytery may decide to recall the Basis of Deferred Union with a view to making another Adjustment decision.

(d) A linking may be deferred in the same manner as a union in terms of subsections (a) to (c) above.

#### (4) LOCAL MISSION CHURCH

The Presbytery may determine in its Mission Plan that a Local Mission Church shall be created, either (a) following a union or dissolution effected in terms of this Act, or (b) as a new venture. Such a Local Mission Church shall be established in terms of the Local Mission Church Regulations and shall be governed by a Basis of Local Mission Church. The process to create a Local Mission Church shall be as specified in the Guidance.

#### (5) GUARDIANSHIP

A charge may continue without the right to call a minister under the Guardianship of the Presbytery. There shall be a Basis of Guardianship which shall include the timing and scope of the how the guardianship shall be reviewed. In such a case, the Presbytery will appoint an Interim Moderator who will ensure that appropriate arrangements are put in place to enable the ongoing ministry and Mission of the congregation(s). For the avoidance of doubt, a Guardianship shall count as 0.25 towards the total ministry allocation for a Presbytery. A Guardianship shall be subject to a separate five yearly review process at the instigation of Presbytery, alongside the normal annual and five-yearly evaluation and development of the Mission Plan.

#### (6) NEW CHARGE DEVELOPMENT

Those new charges which have been established prior to the passing of this Act in terms of Act XIII 2000 may be included in the relevant Mission Plans, but no new charges under Act XIII 2000 may be specified in a Mission Plan after the passing of this Act.

#### (7) TRANSPORTATION

(a) The Presbytery may move a congregation from one place of worship to another, and, where that involves a change of parish, it shall be designated "transportation".

(b) Where transportation is effected, the Presbytery shall take such steps of Adjustment as may be necessary to ensure that the parishes involved are allocated to defined charges.

## (8) PARISH GROUPINGS

The Presbytery may declare that two or more charges shall have responsibility for a single area. The Basis of such an Adjustment shall determine the extent to which the charges shall operate as a Parish Grouping, for instance in the sharing of worship, personnel, education resources, mission initiatives, congregational organisations etc.

## (9) DISSOLUTION

A charge may be dissolved by the Presbytery of the bounds. The Basis of Dissolution shall provide for:-

- (a) The issuing of certificates of transference to all members of the congregation;
- (b) The allocation of the parish to another charge or charges;
- (c) The transfer to the General Trustees, prior to dissolution, of any heritable property held by or on behalf of the congregation title to which is not yet vested in the General Trustees;
- (d) The transfer, prior to dissolution, of funds to enable the General Trustees to discharge their obligations (including maintenance, security and insurance) in relation to any heritable property held by or on behalf of the congregation which is designated as a Historic Property; provided that such funds shall include (i) all restricted funds (including organ funds) held for fabric purposes and (ii) such proportion of all unrestricted funds as may be reasonably required for such purposes by the General Trustees; and
- (e) The destination of all other property and funds of the charge(s).

## (10) TEAM MINISTRY

- (a) The Presbytery may determine, in respect of any charge, the amount of ministerial time required by the charge, and the number and nature of posts necessary, provided that (except in the case of job-sharing) the Presbytery shall identify one of the inducted ministers as moderator of the Kirk Session.
- (b) Presbyteries are encouraged in designing a Team Ministry to consider the significance of the role which might be played by those other than Ministers of Word and Sacrament and Ministries Development Staff.
- (c) The terms under which a Team Ministry will operate shall be set out in a Basis of Team Ministry agreed by the Presbytery and all members of the Team prior to any such Team Ministry being established; the Basis shall include a dispute resolution mechanism.
- (d) A Team Ministry may be created in one or other of the following two ways:

(I) a Presbytery may create a Team Ministry with an inducted parish minister (who shall be the moderator of the Kirk Session) and which may include a deacon, MDS appointments, the appointment of an Ordained Local Minister or such other appointment as may be deemed appropriate in Mission Plan discussions, or

(II) alternatively, the Presbytery may create within the charge a Team Ministry consisting of two or more Team Ministry Charges, to each of which a parish minister shall be inducted, provided always that one of the Team Ministry Charges shall be identified in the Basis as the one providing the moderator of the Kirk Session. The Team may also include a deacon, MDS appointments, the appointment of an Ordained Local Minister or such other appointment as may be deemed appropriate in Mission Plan discussions.

(e) Where there are Team Ministry Charges created in terms of paragraph (d)(II) above, the following shall apply:

(A) The Team Ministry Charges shall share the same congregation and Kirk Session and be part of the same Church life.

(B) The ministers inducted to a Team Ministry Charge shall each occupy the manse provided for their use.

(C) The ministers of the Team Ministry Charges shall be appointed in one or other of the following two ways:

(i) the ministers may be called, with appropriate changes, through the vacancy processes set out in Act VIII 2003, or

(ii) where a new charge is being created by a union of charges and where there are at the time of the proposed union minister(s) inducted to one or more of those charges with unrestricted tenure, it shall be competent for the Presbytery to create Team Ministry Charges within the new charge and to include such minister(s) within the new charge subject to their agreement to the Basis of Team Ministry.

(D) The Team Ministry Charges, save for any exception at (e)(C)(ii) above, shall be Reviewable Charges in the terms set out in section 9(1) of this Act and may be part-time.

(E) For the avoidance of doubt, the minister(s) who are not inducted to the Team Ministry Charge providing the moderator of the Kirk Session will not automatically succeed to that Team Ministry Charge on the occurrence of a vacancy but would be entitled to apply for that Team Ministry Charge through the vacancy processes set out in Act VIII 2003.

## (11) NEW FORMS OF CHURCH LIFE

After consultation with FAPLT, the Presbytery may devise a new form of Adjustment or ministry, ensuring that such form is consistent with the Acts and deliverances of the General Assembly. This may include the provision of online Church, where the Presbytery seeks to coordinate and resource the provision of online worship and Mission by identifying congregations, partnerships or agencies which will be given lead responsibility for such provision; this may include the allocation of a Mission Plan post or posts. The Mission Plan should demonstrate how the Presbytery will relate to those whose belonging is primarily through networks or the virtual world.

## (12) PRESBYTERY MISSION INITIATIVE

The Presbytery may set up a Presbytery Mission Initiative in terms of the Presbytery Mission Initiatives Act (Act V 2015).

## 8. AGREEMENT TO UNION OR LINKING UNDER AN INDUCTED MINISTER

### 8.1 PRELIMINARY

8.1 No Basis of Union or Linking shall be distributed by Presbytery to the office bearers or members of a congregation where the minister has been inducted on the basis of unrestricted tenure without the consent of that minister.

### 8.2 CONGREGATIONAL VOTES ON THE PROPOSED BASIS OF ADJUSTMENT

8.2.1 When an explicit provision of a Basis of Union or Linking is that the minister of one of the congregations involved shall be the minister of the united or linked charge (the new charge) then the following procedures shall be adopted. All such votes shall be by secret ballot.

8.2.2 Where the minister referred to in 8.2.1 was inducted on unrestricted tenure to his or her current congregation, there shall be a single vote taken in that congregation to approve all the terms of the Basis. Other congregations shall vote using the double vote system as set out below.

8.2.3 Where the minister referred to in 8.2.1 was inducted on a Basis of Reviewable Charge there shall be separate votes taken in each congregation on each of the following matters:-

- i. to approve the terms of the Basis, apart from the clause which says that the minister referred to in 8.2.1 shall be the first minister of the new charge; and
- ii. to approve the clause in the Basis which says that the minister referred to in 8.2.1 shall be the first minister of the new charge.

8.2.4 Where a congregation is vacant there shall be separate votes taken in that congregation, irrespective of whether the minister referred to in 8.2.1 was inducted on unrestricted tenure or to a Reviewable Charge, on each of the following matters:-

- i. to approve the terms of the Basis, apart from the clause which says that the minister referred to in 8.2.1 shall be the first minister of the new charge; and

- ii. to approve the clause in the Basis which says that the minister referred to in 8.2.1 shall be the first minister of the new charge.

### 8.3 PROCEDURE SUBSEQUENT TO CONGREGATIONAL VOTES

8.3.1 When the vote taken in terms of 8.2.2 is “for” then the Presbytery is free to proceed to effect the adjustment subject to consideration of the votes taken in terms of 8.2.3 and 8.2.4.

8.3.2 When votes are taken in terms of 8.2.3 and the vote is “for” in terms of i but “against” in terms of ii then the Presbytery may choose to follow one of these options:-

- i. if the review date for the Basis of Reviewable Charge has passed or is imminent, to end the tenure of the Reviewable Charge by giving the minister six months’ notice and thereafter enact the Union or Linking, or
- ii. if the review date for the Basis of Reviewable Charge is some time ahead seek to negotiate a Basis of Deferred Union or Linking to cover the period until the review is due.

8.3.3 Where votes are taken in terms of 8.2.4 and the vote is “for” in terms of i but “against” in terms of ii then the Presbytery may choose to follow one of these options:-

- i. if the review date for the Basis of Reviewable Charge has passed or is imminent, to end the tenure of the Reviewable Charge and give the minister six months’ notice and enact the union or linking, or
- ii. negotiate a Basis of Deferred Union or Linking which will be enacted when either the incumbent minister on unrestricted tenure has left his/her charge or, if applicable, when the Reviewable Charge may be reviewed and its tenure terminated.

### 8.4 GENERAL PROVISIONS FOR SUCH ADJUSTMENTS

8.4.1 A Presbytery may not effect an adjustment whereby a minister would be imposed on a congregation which has not voted in favour in terms of 8.2.3 ii or 8.2.4 ii.

8.4.2 In the case of a minister who becomes minister of a united or linked charge in terms of a Basis of Union or Linking, the united or linked charge shall be regarded as a modification of the charge to which he or she has already been inducted so that no further induction shall be required; but in all such cases the Presbytery shall conduct a service of introduction.

## 9. INSTRUMENTS FOR FUTURE PLANNING

9.0 The Presbytery may utilise in its Mission Plan either of the instruments for future planning described below.

### (1) REVIEWABLE CHARGE

9.1.1. In respect of any charge, the Presbytery may decide that such charge shall be a Reviewable Charge, meaning that its next minister shall be inducted on condition that the Presbytery may terminate the tenure of the minister at any time and for any reason which may seem good to the

Presbytery, on terms specified in the Basis of Adjustment and always upon giving the minister six months' notice in writing. On the date of termination, the minister shall be deemed to have demitted his or her charge.

9.1.2. The minister shall be free to seek to demit or be translated as in the ordinary case of any minister inducted to a charge, provided that, if the Reviewable Charge is that minister's first charge, this constitutes exceptional circumstances in terms of section 4 of the Vacancy Procedure Act (Act VIII 2003).

9.1.3 Before proceeding to induct a minister in terms of this section 9(1), the Presbytery shall submit to him or her the Basis of Reviewable Charge, and shall obtain and record his or her written acceptance thereof.

## (2) TRANSFERENCE

9.2.1 A parish and charge may be transferred from the bounds and jurisdiction of one Presbytery to the bounds and jurisdiction of another with the agreement of both Presbyteries.

9.2.2 In the event of disagreement between the two Presbyteries, the Presbytery desiring the transference may request a review by the Mission Plan Review Panel in terms of the Schedule within fourteen days of the date of the Presbytery meeting at which a decision disputing the transference was taken, and shall immediately notify the other Presbytery of its request.

9.2.3 Transference shall be a necessary preliminary to union or linking of congregations which are not within the bounds of one Presbytery.

## 10. ACHIEVEMENT OF ADJUSTMENT

10.1 When the Presbytery decides to negotiate a Basis of Adjustment in a charge in accordance with a Mission Plan, it shall remit to the appropriate Standing Committee, or to a committee appointed for the purpose, the task of conferring with local parties, provided that:

(a) Conference with local parties shall be with the ministers and with the elders and the members of the Financial Board (if any) of the congregations which may be involved in Adjustment, and should include consultation with other members of a ministry team;

(b) No proposed Adjustment involving the rights of the minister shall be discussed with the office-bearers of the congregation as in (a) above without his or her consent in writing;

(c) All meetings of office-bearers under this section 10.1 shall be called by the Presbytery's Committee and a minister, deacon or elder, appointed by the said Committee, shall act as Convener for the purposes of conference. In no case shall a minister preside at or attend any meeting called under the terms of this Act where matters in which his or her interests are involved are discussed or decided.

10.2 A detailed Basis of Adjustment shall be negotiated with the office-bearers involved, and in the course of the negotiation its text shall be submitted to FAPLT to ensure it is consistent with the Mission Plan, and to the Principal Clerk and the Solicitor of the Church who shall ensure that the provisions of the Basis are in conformity with Church and Civil Law. The Basis of Adjustment shall be voted upon firstly by the office-bearers and then by the congregation or congregations involved. Those entitled to speak and vote at such a congregational meeting shall include those who have been formally recognised by the Kirk Session as adherents of the congregation. If all the votes are, by a majority, in favour of the Adjustment, then the Committee of Presbytery to which the matter has been delegated under section 10.1 may proceed to implement the Adjustment without the need to decide the matter at a Presbytery meeting. Alternatively, if all the votes have not been, by a majority, in favour, the Presbytery's Committee shall consider the matter further and shall bring proposals to the Presbytery for the Presbytery to decide upon, subject always to section 10.3 of this Act. In operating this section 10.2 it is provided always that:

(a) no Basis affecting the rights of a minister shall be presented to his or her, or any other, congregation without his or her written consent,

(b) any congregation directly involved in and named in any proposed Basis shall be cited to appear for their interests at any full meeting of the Presbytery at which a decision is to be made in terms of this Act.

10.3 Notwithstanding the provisions of this section 10, while it shall be the duty of the Presbytery to make every effort to secure approval of the office bearers and congregations involved, the right of the Presbytery to effect Adjustment in terms of this Act is hereby affirmed, subject to the written consent of any minister or ministers whose rights would be adversely affected.

## 11. REVIEW OF A BASIS OF ADJUSTMENT

11.1 It shall be open to any Kirk Session involved in the Adjustment or twelve or more members of Presbytery to seek a review of a Basis of Adjustment by the Mission Plan Review Panel. Such a review shall consider whether the details of the Basis are in conformity with the Approved Mission Plan and this Act and must be requested within fourteen days of the decision of the Presbytery or its Committee on the Basis, as the case may be.

11.2 Such review shall otherwise proceed in line with the provisions of the Schedule.

## 12. MEMBERS OF PRESBYTERY

12.1 For the avoidance of doubt it is hereby declared that any person who is both a member of a cited congregation and a member or a corresponding member of the Presbytery (including an Interim Moderator) shall be entitled to participate in any discussion leading to a decision of the Presbytery in terms of this Act and, where qualified, to vote thereon.

### 13. GUIDANCE

13.1 FAPLT, after consultation with the Legal Questions Committee, shall issue Guidance on the implementation and operation of this Act, including a Code of Practice, which shall be reviewed by FAPLT in consultation with the Legal Questions Committee, from time to time.

### 14. REPEALS AND AMENDMENTS

14.1 The Appraisal and Adjustment Act (Act VII 2003) is hereby repealed except that section 9(2) of that Act shall remain in force until Approved Mission Plans are in place for all Presbyteries.



## **SCHEDULE- THE MISSION PLAN REVIEW PANEL**

### **A: GENERAL: COMPOSITION, JURISDICTION AND MAKING A REQUEST OF THE PANEL**

#### **1. Composition (for all Jurisdiction matters)**

The Mission Plan Review Group shall be a group of fifteen persons appointed by the General Assembly on the Report of the Nomination Committee and in line with the process for appointing persons to other judicial bodies. Additionally, FAPLT and the General Trustees shall be entitled to make suggestions to the Legal Questions Committee as to persons who are suitable for appointment to the Group, but the final decision as to nominees shall rest with the Legal Questions Committee. The members of the Group shall be suitably experienced members of the Church. The members of the Panel shall initially be appointed for a term of four years, and shall be eligible for reappointment for further terms of four years.

The Panel shall consist of three members selected by the Clerks of Assembly from the Mission Plan Review Group. One member shall act as Convener. The quorum of the Panel shall be two, including the Convener. None of the members of the Panel shall be members of the Presbytery whose Mission Plan is being considered or reviewed.

Where a Mission Plan Review Panel has previously been formed to consider a question relating to a particular Mission Plan, if there is a subsequent request for assistance or review relating to the same Mission Plan, the Panel shall be formed so as not to include the same persons.

The Clerks of Assembly shall act as Clerks to Mission Plan Review Panels.

#### **2. Jurisdiction**

The Panel shall consider the following matters:

- (a) in terms of section 2.2, an application by the Presbytery, FAPLT and/or the General Trustees for the Panel to assist the parties to resolve the matter where agreement cannot be reached on a Mission Plan among the Presbytery, FAPLT and the General Trustees within a period of three calendar months of their receipt of the Mission Plan;
- (b) in terms of section 2.4, an application by the Presbytery, FAPLT and/or the General Trustees for the Panel to assist the parties to resolve the matter where agreement cannot be reached on the five-yearly evaluation and development of the Mission Plan among the Presbytery, FAPLT and the General Trustees within a period of one calendar month of their receipt of the Mission Plan;
- (c) in terms of section 3, an application from any twelve or more members of the Presbytery or any Kirk Session seeking a review of the process used by the Presbytery in preparing and approving a Mission Plan or in its annual or five-yearly evaluation and development;
- (d) in terms of section 6, an application from any twelve or more members of Presbytery or a Kirk Session requesting a review of a decision of the Presbytery and/or FAPLT and/or the General Trustees to suspend the implementation of a Mission Plan in part or whole;

(e) in terms of section 9(2), an application for review from a Presbytery desiring to transfer a parish and charge from the bounds and jurisdiction of one Presbytery to the bounds and jurisdiction of another (Transference), where there is disagreement between the two Presbyteries; and

(f) in terms of section 11, an application from twelve or more members of Presbytery or a Kirk Session seeking a review of a Basis of Adjustment, to consider whether the details of the Basis are in conformity with the Mission Plan and this Act;

provided always that no provision of this Act shall operate so as to have the Panel review its own decision or give judgement twice on the same question.

### **3. Making the request for assistance (Jurisdiction paragraphs(a) & (b)) or for review (Jurisdiction paragraphs (c) to (f))**

A request for assistance or review shall be sent to the Principal Clerk (who in turn shall inform FAPLT and the General Trustees) within fourteen days of the relevant event.

#### **B: ASSISTANCE (Jurisdiction paragraphs (a) & (b) above)**

##### **1. Procedure for assistance**

The Panel shall have wide discretion to assist the parties to reach agreement as it sees fit. The Panel shall have power to require parties to produce documents and information as to the provisions of the Mission Plan.

#### **C: REVIEW (Jurisdiction paragraphs (c) to (f) above)**

##### **1. Grounds for requesting review (Jurisdiction paragraphs (c) to (e) above)**

A review may only be requested on the grounds that (a) there was a material error in Church law, (b) there was material irregularity of process on the part of Presbytery (or FAPLT or General Trustees, as the case may be) or (c) the decision of Presbytery (or FAPLT or General Trustees, as the case may be) took into account an irrelevant material fact or failed to take into account a relevant material fact.

##### **2. Ground for requesting review (Jurisdiction paragraph (f) above)**

Such a review may only be requested where it is alleged that the details of the Basis are not in conformity with the Approved Mission Plan and this Act.

##### **3. Procedure for review (Jurisdiction paragraphs (c) to (f) above)**

A request for review shall require to obtain leave to proceed from the General Assembly's Committee on Overtures and Cases, whose decision shall be final.

The Panel shall complete a review within three calendar months of receiving the request for a review (along with all necessary documentation), save that the Panel has the discretion to extend this timescale on cause shown. The Panel may choose to proceed wholly on written submissions or may choose to hold a hearing, which may be online. The Panel may decide whether or not to visit the place(s) giving rise to the request for review and when doing so may choose whether or not to meet with local parties.

If the Panel chooses to proceed wholly on written submissions it shall notify its final decision to all interested parties. The decision shall be in writing and shall set out the grounds upon which its decision was reached.

If the Panel chooses to hold a hearing, whether in person or online, procedure shall follow that of the General Assembly's Standing Orders and shall normally be as follows:

1. Hearing is opened with prayer
2. Convener makes introductions
3. Convener explains the purpose of the hearing
4. Persons requesting review are given opportunity to speak (through one nominated speaker)
5. Respondent (normally Presbytery) is given opportunity to speak (through one nominated speaker)
6. Members of the Panel ask questions of parties
7. Respondent has its final word
8. Persons requesting review have their final word
9. Parties are removed and Panel reaches a decision
10. Decision is intimated when parties are recalled or may be intimated by email to parties; at this stage a summary of reasons for the decision may be given
11. Hearing is closed with prayer/the Grace/the Benediction

Within fourteen days of the hearing a written decision shall be issued which shall set out the grounds on which the decision was reached.

#### **4. Possible outcomes (Jurisdiction paragraphs (c) to (e) above)**

The outcome of the review process will be either (1) no change, ie to endorse the correctness of the decision which has been made, or (2) to send the matter back to the decision-maker for the decision to be made again, with identifications of any deficiencies in its processes.

The review is about the legality of the processes adopted (how the decision was taken), not the substance of the decision made. The outcome will not be a different decision.

#### **5. Possible outcomes (Jurisdiction paragraph (f) above)**

The outcome of the review process will be either (1) to confirm that the Basis is in conformity with the Mission Plan and this Act or (2) to confirm that it is not. In the latter case the Presbytery will thereafter renegotiate the Basis.

**6. Finality of decisions (Jurisdiction paragraphs (c) to (f) above**

The Panel's decision on a request for review, however determined, shall be final and there shall be no right of appeal against a decision of the Panel.

## **VI SOLEMNISATION OF SAME SEX MARRIAGE ACT (ACT VI 2022)**

*Edinburgh, 23 May 2022, Session 4*

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

### **Definitions and Interpretation**

1. (a) "Parish Minister" shall have the meaning ascribed to it in the Parish Ministry Act (Act II 2018);
- (b) "Minister of Word and Sacrament" shall have the meaning ascribed to it in the Parish Ministry Act (Act II 2018);
- (c) "same sex marriage" shall mean the process described in the MSA;
- (d) "the MSA" shall mean the Marriage (Scotland) Act 1977 as it exists at 24 May 2021;
- (e) "Deacon" shall mean a person holding the office of Deacon in terms of the Deacons Act (Act VIII 2010);
- (f) "Authorised Celebrant" for the purposes of this Act means a Minister of Word and Sacrament or a Deacon who is empowered to solemnise same sex marriage in terms of the MSA;
- (g) "Principal Clerk" includes a person deputising for the Principal Clerk.

### **General provisions**

2. A Minister of Word and Sacrament or a Deacon may apply in terms of this Act to become an Authorised Celebrant for same sex marriage.
3. No person shall be required by this Act to participate in the solemnisation of, or be involved in the arrangements for, a same sex marriage.
4. In all matters referred to in this Act, including but not limited to making application to become an Authorised Celebrant, permitting or granting consent for use of buildings, arranging for the participation of others in the solemnisation of a same sex marriage, and making practical arrangements for same sex weddings, a Minister of Word and Sacrament or a Deacon, as the case may be, shall take account of the peace and unity and pastoral needs of the congregation and of any parish or other grouping of which it is a part.

### **Becoming an Authorised Celebrant for same sex marriage**

5. The process for becoming an Authorised Celebrant shall be:
  - (i) Application shall be made initially to the Principal Clerk's Office on a form prescribed by the Principal Clerk.
  - (ii) The Principal Clerk will make application to the Registrar General for Scotland on behalf of the Minister of Word and Sacrament or Deacon, as the case may be, in terms of section 9(1A) of the MSA.
  - (iii) The Principal Clerk will liaise with and advise the Minister of Word and Sacrament or Deacon, as the case may be, of the outcome of the application.
6. The Principal Clerk shall maintain an up to date record of Authorised Celebrants.
7. Authorised Celebrants shall be responsible for initiating their own three yearly renewal of their status in terms of the MSA, although the actual process will be administered through the Principal Clerk's Office.

### **Use of buildings**

8. Only a Parish Minister who has become an Authorised Celebrant in terms of sections 5 to 7 above may, in accordance with and subject to the terms of sections 12 to 15 of the Parish Ministry Act (Act II 2018):
  - (i) permit the use of a Church building in their charge for the solemnisation of same sex marriage, and
  - (ii) grant consent for other Authorised Celebrants to use such a building for the solemnisation of same sex marriage. For the avoidance of doubt, any specific permission or consent for an individual same sex marriage granted by a Parish Minister in terms of this section 8 shall endure notwithstanding that such Parish Minister subsequently departs from the charge in respect of which such permission or consent was granted.
9. An Interim Moderator who is a Minister of Word and Sacrament shall, for the purposes of this Act, have the same rights and obligations as a Parish Minister under section 8 of this Act in relation to use of buildings.

#### **Minister's or Deacon's discretion**

10. Nothing in this Act shall contravene the general principle of Church law that any Minister of Word and Sacrament or Deacon has the right to determine at any time whether or not to conduct the marriage of any persons.

#### **Territorial extent**

11. This Act makes provision for same sex marriage conducted in accordance with the MSA.

#### **Consequential amendments**

12. The Recognition of Marriage Services Act (Act I 1977) shall be amended as follows:
  - (i) Section 2 shall be deleted and the following shall be substituted: "Solemnisation of marriage in the Church of Scotland is effected by an ordained minister or deacon in a religious ceremony wherein, before God, and in the presence of the minister or deacon and at least two competent witnesses, the parties covenant together to take each other in marriage as long as they both shall live, and the minister or deacon declares the parties to be married."
  - (ii) In section 3, the words "or deacon" shall be inserted after the word "minister".
  - (iii) Section 4 shall be deleted.
13. The Parish Ministry Act (Act II 2018) shall be amended as follows: Add a new subparagraph (5) as follows to section 4: "(5) where a Minister of Word and Sacrament who is an Authorised Celebrant in terms of the Solemnisation of Same Sex Marriage Act (Act VI 2022), enters the bounds of the Charge of an existing Parish Minister who is not such an Authorised Celebrant, to solemnise a same sex marriage."

#### **Guidance**

14. The Legal Questions Committee shall produce Guidance to accompany this Act, which Guidance shall be reviewed by it from time to time. Such Guidance shall be taken into account by all those using or affected by this Act.

**XIII ADMISSION AND READMISSION OF MINISTERS ACT (ACT XIII 2022)**  
*Edinburgh, 24 May 2022, Session 8*

The General Assembly hereby enact and ordain as follows:

**PART A – DEFINITIONS AND INTERPRETATION**

**Definitions**

1. In this Act the following definitions apply:
  - (a) “Admission” means the process of making an application to be admitted to Ministry in the Church of Scotland from a person who has not previously held a post in Ministry in the Church of Scotland.
  - (b) “Admissions Applicant” means a person who is seeking to be recognised as an Admissions Candidate.
  - (c) “Admissions Candidate” means a person who has been accepted at an Admissions Conference or Admissions Panel.
  - (d) “Admissions Conference” means a conference of trained Assessors to which the Forum delegates authority to assess the fitness of applicants for Ministry in the Church of Scotland.
  - (e) “Admissions Panel” means a panel of trained Assessors to which the Forum delegates authority to assess transfer from Temporary to Standard Certificates.
  - (f) “Certificate of Eligibility” means one of the Certificates referred to in section 12 below.
  - (g) “Certificate Holder” means a person who has received a Certificate of Eligibility.
  - (h) “Familiarisation Placement” means a placement as described in section 11 below.
  - (i) “the Forum” means the General Assembly’s Faith Nurture Forum responsible for recruitment, selection and training for Ministry.
  - (j) “Ministry” means a post which is commensurate with the requirements for Category O in the Registration of Ministry Act (Act II 2017).
  - (k) “Ordinand” means a person who has completed all requirements for training for ministry in their own denomination and who is eligible for ordination in that denomination but who has not yet been ordained there.
  - (l) “Readmission” means the process of making an application to be readmitted to Ministry in the Church of Scotland from a person who has previously held a post in Ministry in the Church of Scotland.
  - (m) “Readmissions Panel” means a panel of trained Assessors to which the Forum delegates authority to assess Readmission.
  - (n) “UK State Pension Age” means the age at which a person, had they been a UK citizen, would reach UK State Pension Age as determined at the relevant time by the UK Government’s calculations.<sup>25</sup>
2. Wherever a matter referred to in this Act is within the discretion of the Forum, that decision may be delegated, whether to staff or suitably qualified persons, as the Forum sees fit.

**Part B - ADMISSION**  
**Pre assessment of eligibility**

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<sup>25</sup> *Ascertained currently by the calculator found on the gov.uk website*

3. (1) A person wishing to be admitted to Ministry in the Church of Scotland from another denomination shall submit to the Forum a Pre Assessment Form (supplied for completion on initial contact with the Forum), together with their current curriculum vitae and academic transcripts of subjects studied in their theological degree, to enable the Forum to assess their suitability and equivalency of academic qualification.
- (2) In addition:
  - (a) a person who has been ordained in their own denomination shall supply their Ordination Certificate to enable assessment of whether or not their ordination is recognised by the Church of Scotland for the purpose of Admission, and
  - (b) a person who is an Ordinand in their own denomination shall supply information to verify the completion of their academic training, their Church completed placements/probation and their current eligibility for ordination in their own denomination.
- (3) The person shall thereafter be advised by the Forum whether or not they are eligible to make an Application in terms of sections 4 & 5. The Forum's decision on this is final and there is no right of appeal.

#### **Denominational and age limits**

4. (1) The Forum will accept applications from ordained ministers and Ordinands from denominations belonging to the World Communion of Reformed Churches (WCRC) or the Church of England (in terms of the Columba Declaration). Applications from those in other denominations may be considered on an exceptional basis.
- (2) The Forum will not consider an application for a Standard Certificate of Eligibility from any person who in all normal circumstances could not complete the requirements for a Certificate of Eligibility before 31 December in the year which is ten years before the calendar year in which that person will reach the age which would be their UK State Pension Age.
- (3) In the case of a Temporary or Restricted Certificate of Eligibility, an application will not be considered from any person who in all normal circumstances could not complete the requirements for such a Certificate of Eligibility before 31 December in the year which is three years before the calendar year in which that person will reach the age which would be their UK State Pension Age.

#### **Application for Admission**

5. (1) If the person satisfies the requirements of sections 3 & 4, the person may then make an application to the Forum for Admission.
- (2) Such a person shall complete the application form prescribed by the Forum, including any self-declaration(s) and shall send it to the Forum along with the required accompanying documentation and payment of the appropriate fee(s), all by the date determined and supplied by the Forum.
- (3) The application shall give full particulars as to the person's age, present Church connection, educational curriculum, ministerial career and other employment, together with a statement indicating the reasons for the person's wish to be admitted to Ministry in the Church of Scotland. The application shall be accompanied by all the documents (originals, extracts or copies) necessary in



the opinion of the Forum to substantiate the facts set forth, and shall include the names of three referees.

- (4) If English is not the person's first language, he or she shall also complete such evaluation(s) as the Forum may require as to their linguistic proficiency.
- (5) If the necessary visa to exercise Ministry in the Church of Scotland cannot be obtained at any time, the application may not proceed. All visa fees shall be the responsibility of the applicant.
- (6) All persons making application shall also be subject to a criminal record check.
- (7) The person shall thereafter be advised by the Forum whether or not their application can proceed to the next stage under section 6. The Forum's decision on this is final and there is no right of appeal.

### **Initial Online Assessment**

6. (1) Following application under section 5, a person who is accepted by the Forum to proceed to the stage of Initial Online Assessment shall be known as an Admissions Applicant.
- (2) An Admissions Applicant shall take part in an Initial Online Assessment arranged by the Forum.
- (3) The Initial Online Assessment shall take place on a date supplied to the Admissions Applicant and shall assess the Admissions Applicant's Call, doctrine and gifts. Following the Initial Online Assessment, a decision shall be made by the Forum as to whether or not the Admissions Applicant may proceed in terms of section 7 to Full Assessment at an Admissions Conference in Scotland.
- (4) An Admissions Applicant who is not accepted at Initial Online Assessment must wait a minimum period of one year, as notified to that person by the Forum, before they may again participate in an Initial Online Assessment under this section 6.
- (5) The outcome of each Initial Online Assessment shall be final and not subject to any form of review or appeal, save as set out in section 9 below.

### **Full Assessment at an Admissions Conference**

7. (1) A person who is deemed ready to proceed after an Initial Online Assessment may undertake Full Assessment at an Admissions Conference.
- (2) An Admissions Conference shall normally be a residential in-person conference held in Scotland, but the Forum reserves the right to hold an Admissions Conference online should circumstances make this necessary or desirable.
- (3) A fee shall be payable by the Admissions Applicant in order to reserve a place at an Admissions Conference, and this fee shall be refundable on attendance. Travel costs are payable by the Admissions Applicant.
- (4) At an Admissions Conference there shall be careful consideration of the Admissions Applicant's character and beliefs, vocation, motivation and general suitability. Following the Admissions Conference, a decision shall be made as to whether or not the Admissions Applicant should be accepted as an Admissions Candidate.
- (5) All Admissions Applicants who attend an Admissions Conference shall receive notification of the decision taken at the Admissions Conference in terms of sub-section (4) and feedback on the reasons for the decision.

### **Opportunities to become an Admissions Candidate**

8. (1) A person applying under this Act shall have three opportunities in total to progress through Initial Online Assessment and Admissions Conference to become an Admissions Candidate. Each time the person is not accepted shall count as one “non-accept” decision. Once a total of three “non-accept” decisions have occurred, no further entry into the Admission process, at any stage, will be possible for that person. A person will however have rights of appeal as set out in section 9 below.
- (2) Following a “non-accept” decision at any stage, a person must wait for the period specified by the Forum, being a minimum period of one year, before being assessed again.
- (3) After any “non-accept” decision at any stage, a person who chooses to re-enter the Admission process shall start again at section 3, ie at the stage of Pre-assessment of eligibility.

### **Appeals**

9. (1) An Admissions Applicant shall have the right to appeal to the Ministries Appeal Panel as follows:
  - (a) following a third “non-accept” decision, whether that is at Initial Online Assessment or Admissions Conference, or
  - (b) following a first or second “non-accept” decision where the person would thereafter be age-barred in terms of section 4(3) from pursuing a fresh application for Admission.

For the avoidance of doubt, in no other circumstances shall an appeal shall be possible after a first or second “non-accept” decision.
- (2) Notification of the intention to appeal shall be made to the Forum and to the Principal Clerk within 14 days of the date upon which the decision of the Initial Online Assessment or of the Admissions Conference, as the case may be, was intimated to the Admissions Applicant.
- (3) At the Appeal Hearing the Admissions Applicant shall be entitled to appear either online or in person, as determined by the Forum, and to address the Panel. He or she may be accompanied by a companion, who shall not be entitled to speak to the Panel, but who may confer with the Admissions Applicant. A representative of the Forum shall also appear to present the case for the decision under appeal. All parties will be in possession of the reports from the Initial Online Assessment and/or the Admissions Conference, as the case may be.
- (4) An appeal to the Ministries Appeal Panel can only be brought on one or more of the following grounds: (a) that in the course of the Initial Online Assessment or Admissions Conference there were irregularities in the process, (b) that the final decision of the Initial Online Assessment or Admissions Conference was influenced by incorrect material fact, or (c) that the Initial Online Assessment or Admissions Conference acted contrary to the principles of natural justice.
- (5) The outcome of an appeal shall be either to uphold the decision of the Initial Online Assessment or the Admissions Conference, as the case may be, or to annul that decision, in which case sub-sections (6) and (7) below will apply.
- (6) If the outcome of the appeal is to annul a decision, whether at Initial Online Assessment or Admissions Conference, the person shall be treated as if they had not attended that Initial Online Assessment or Admissions Conference, as the case may be, and shall be entitled to enter the Admission process again on

one occasion only at the stage of attending one further Initial Online Assessment (and, if accepted there, one further Admissions Conference) or Admissions Conference, as the case may be. Such re-entry into the process must commence within one year of the appeal decision and shall be permitted notwithstanding the terms of sections 4(2) and 4(3) of this Act. Any further “non-accept” decision on that next occasion at either stage shall terminate that person’s eligibility to enter the Admission process under this Act and there shall be no further right of appeal.

- (7) If the outcome of the appeal is to uphold the decision of the Initial Online Assessment or the Admissions Conference, as the case may be, that shall terminate the Admission process for that person and they may not re-enter into it at any time.

### **Medical Assessment**

10. (1) A person who is accepted as an Admissions Candidate shall, following Admissions Conference, undergo a medical assessment in the form prescribed by the Forum and may only proceed as an Admissions Candidate if that assessment is, in the opinion of the Forum, satisfactory. The Forum’s decision shall be final.
- (2) If the medical assessment is unsatisfactory, the Admissions Candidate shall lose their status as such. The person may choose to apply again under this Act, in which event they shall commence at section 3, and subject always to the provisions of section 8, and provided always that the person must wait for the period prescribed by the Forum, being a minimum period of one year. In this situation the person must consent to undergoing a further medical assessment prior to making the new application at section 3 and that assessment must be satisfactory in the opinion of the Forum in order for the application to proceed. An unsatisfactory medical assessment on that occasion shall mean that no further entry into the Admission process is possible for that person.

### **Familiarisation Placement/Probationary placement**

11. (1) Following a satisfactory medical assessment in terms of section 10(1) above, the Admissions Candidate will enter a Familiarisation Placement assigned by the Forum, or in the case of an Admissions Candidate who is an Ordinand, shall enter into a fifteen-month full-time probationary placement undertaken according to the provisions of section 17 to 22 of the Selection and Training for Full-Time Ministry Act (Act X 2004).
- (2) An Admissions Candidate must commence their Familiarisation Placement within three years of becoming an Admissions Candidate, failing which their status as an Admissions Candidate shall cease. If a matter which would constitute a material breach of the Terms and Conditions document referred to in section 11(4), had that been signed, comes to the attention of the Forum in the period between acceptance as an Admissions Candidate and commencement of the Familiarisation Placement, the Forum may advise the Admissions Candidate that they have been removed from the Admissions process under this Act and shall not be entitled to reapply. There shall be no right of appeal against such a decision.
- (3) During a Familiarisation Placement, the Admissions Candidate will work under the supervision of a Supervisor. The Familiarisation Placement shall last for a

- period of twelve months, subject always to sub-section 11(12) below. A proportion of minimum stipend will be payable during the Familiarisation Placement, but the Admissions Candidate will be responsible for locating and funding their own accommodation during this time.
- (4) At the start of the Familiarisation Placement the Admissions Candidate shall enter into a Terms and Conditions document in the form prescribed by the Forum.
  - (5) The Supervisor for the Familiarisation Placement will be chosen by the Forum. The Supervisor shall undertake such training for the role as may from time to time be specified by the Forum. The Supervisor shall be responsible for supervising the Familiarisation Placement according to the guidelines and standards established by the Forum.
  - (6) During the Familiarisation Placement the Admissions Candidate shall undertake such courses as may be prescribed by the Forum in Scottish Church History, Church Law and Safeguarding.
  - (7) During the Familiarisation Placement an Admissions Candidate may be invited by the Presbytery within which lies the charge or appointment where his or her Familiarisation Placement is proceeding, to become a corresponding member of that Presbytery.
  - (8) After six months, the Forum shall undertake an interim review of the Admissions Candidate according to the Terms and Conditions document.
  - (9) After nine months the Forum shall undertake a final review of the Admissions Candidate according to the Terms and Conditions document. At that point a decision shall be made as to sustain, extend or not sustain the Familiarisation Placement.
  - (10) If the Familiarisation Placement is sustained and provided the Admissions Candidate has completed the necessary courses in terms of section 11(6), the Admissions Candidate may commence applying for charges or appointments. At the completion of the full Familiarisation Placement, the candidate shall be entitled to receive a Certificate of Eligibility of the type determined by the Forum. Such a person shall thereafter be known as a Certificate Holder.
  - (11) It shall be competent for the Forum to refuse to sustain a Familiarisation Placement, or to terminate a Familiarisation Placement in the event of a material breach of the Terms and Conditions document which was entered into between the Admissions Candidate and the Forum in terms of section 11(4). There shall be no appeal against such a decision but a written explanation shall be provided to the Admissions Candidate in question. Such a person shall be removed from the Admission process under this Act and shall not be entitled to reapply.
  - (12) Exceptionally a Familiarisation Placement may be extended at the instigation of the Forum, on a month by month basis, for a maximum period of up to three months to allow the Admissions Candidate to be inducted to a charge or take up an appointment.
  - (13) Exceptionally, where in the opinion of the Forum there is sufficient evidence of rooted and recent experience of ministry in the Church of Scotland, the Forum may decide that an Admissions Candidate need not complete a Familiarisation Placement and the Forum may instead immediately grant to that person a Certificate of Eligibility of the type determined by the Forum subject to a mentoring arrangement, such mentoring arrangement to be put in place by the relevant Presbytery.

### **Certificates of Eligibility**

12. The types of certificate which may be issued by the Forum under this Act are:

- (a) a "Standard Certificate of Eligibility" entitles the holder to apply for charges and appointments in Ministry in the Church of Scotland. Admission to the status of minister of the Church of Scotland shall take effect at the point of admission to membership of Presbytery, which, in the case of an Ordinand, shall involve ordination. Certificates of Eligibility shall be valid for three years from the date of issue.
- (b) a "Temporary Certificate of Eligibility" entitles the holder to apply for charges and appointments in Ministry in the Church of Scotland, but to hold any such post for an initial period of three years only. The following shall also apply to the holder of such a Certificate:
  - (A) The Certificate shall entitle the holder to hold a post for period of three years provided that post commences within three years of the date on which the Temporary Certificate of Eligibility is granted.
  - (B) At the request of the Kirk Session/employer, and with the concurrence of the Presbytery and the Forum, the initial period of three years may be extended for one further period of not more than three years.
  - (C) The holder, if inducted to a charge, shall be granted a seat in Presbytery.
  - (D) The holder shall retain status as a minister in their denomination of origin. Admission to the status of minister of the Church of Scotland shall only take effect if the holder makes application to the Forum for such status. The age limit specified in section 5(3) shall apply save that an allowance shall be made for service already rendered. Such an application shall be considered at an Admissions Panel and the paperwork considered shall be as specified by the Forum, to include an application form and references. At least one reference shall be provided from a person with knowledge of the holder's current post.
  - (E) Any employment contract which the holder enters into shall have a condition that it is an essential requirement for the person to hold a Temporary Certificate of Eligibility and without it the employment shall cease.
  - (F) The holder of a Temporary Certificate of Eligibility whose Certificate expires without him or her having successfully applied to be admitted to the status of minister of the Church of Scotland shall have no further right to apply for or be inducted to a charge or appointed to a post in Ministry in the Church of Scotland.
- (c) a "Restricted Certificate of Eligibility" entitles the holder to apply for a specified charge within the Presbytery of International Charges and that on the basis of the holder being introduced to the charge for an initial period of three years only, subject to the following provisions:
  - (i) The Certificate shall entitle the holder to hold a post for a period of three years provided that post commences within six months of the date on which the Restricted Certificate of Eligibility is granted.
  - (ii) At the request of the Kirk Session and with the concurrence of the Presbytery of International Charges and the Forum, the initial period of three years may be extended for one further period of not more than three years.

- (iii) The holder shall sign the Formula upon being introduced to the post and shall thereafter be granted a seat in Presbytery.
  - (iv) The holder shall retain status as a minister in their denomination of origin. Admission to the status of minister of the Church of Scotland shall only take effect if the holder makes application to the Forum for such status under the Church's normal process of admission in terms of this Act and satisfactorily completes same, though the applicant's service in the Presbytery of International Charges shall be taken into account in determining what Familiarisation Placement might be required. The age limit specified in section 4(3) shall apply save that an allowance shall be made for service already rendered.
  - (v) Any contract which the holder enters into in the Presbytery of International Charges shall have a condition that it is an essential requirement for the person to hold a Restricted Certificate of Eligibility and without it the contract shall cease.
- (d) An "OLM Certificate of Eligibility" entitles the holder to serve in the Church of Scotland in accordance with the provisions of the Ordained Local Ministry Act (Act IX 2011).

## **PART C - READMISSION**

### **Application for Readmission**

13. (1) A person wishing to be readmitted to Ministry in the Church of Scotland shall complete the application form prescribed by the Forum, including any self-declaration(s) and shall send it to the Forum along with the required accompanying documentation, their current curriculum vitae, their ordination certificates for the Church of Scotland and for their current denomination (if any), and proof of status in their current denomination (if any), all by the date determined and supplied by the Forum.
- (2) The application shall give full particulars as to the person's age, present Church connection, educational curriculum, ministerial career and other employment, together with a statement indicating the reasons for the person having demitted status in the Church of Scotland and the reasons for their wish to be readmitted to Ministry in the Church of Scotland. The application shall be accompanied by all the documents (originals, extracts or copies) necessary in the opinion of the Forum to substantiate the facts set forth, and shall include the names of three referees.
- (3) If the person requires a visa in order to exercise Ministry in the Church of Scotland and this cannot be obtained at any time, the application may not proceed. All visa fees shall be the responsibility of the applicant.
- (4) All persons making application shall also be subject to a criminal record check.
- (5) The person shall thereafter be advised by the Forum whether or not their application can proceed to a Readmissions Panel under section 14. The Forum's decision on this is final and there is no right of appeal.

### **Readmissions Panel**

14. (1) Following application under section 13, a person who is accepted by the Forum to proceed to a Readmissions Panel arranged by the Forum shall be known as a Readmissions Applicant.

- (2) A Readmissions Panel shall normally be held in person in Scotland, but the Forum reserves the right to hold a Readmissions Panel online should circumstances make this necessary or desirable.
- (3) The Readmissions Panel shall take place on a date supplied to the Readmissions Applicant and shall assess the Readmissions Applicant's Call, doctrine and gifts/character and beliefs, vocation, motivation, general suitability, together with their reasons for having demitted status in the Church of Scotland and the reasons for their wish to be readmitted. The Readmissions Panel shall make a decision as to whether or not the Readmissions Applicant may be readmitted to Ministry in the Church of Scotland.
- (4) All Readmissions Applicants who attend a Readmissions Panel shall receive notification of the decision taken by the Readmissions Panel in terms of sub-section 14(3) and feedback on the reasons for the decision.
- (5) If the decision of the Readmissions Panel is that the Readmissions Applicant is to be readmitted to Ministry in the Church of Scotland, the Panel may additionally determine as follows:
  - (a) that the Readmissions Applicant will require to undergo a Familiarisation Placement and that the granting of a Certificate of Eligibility will be subject to satisfactory completion of that Placement, in which case section 11 shall apply amended as appropriate, or
  - (b) that the Readmissions Applicant will be granted a Certificate of Eligibility subject to a mentoring arrangement to be put in place by the relevant Presbytery; and declaring that both such decisions will be subject to a medical assessment in terms of section 17 below.
- (6) A Readmissions Applicant who is not accepted at a Readmissions Panel must wait a minimum period of one year, as notified to that person by the Forum, before they may again participate in a Readmissions Panel.

#### **Opportunities to be accepted by a Readmissions Panel**

15. (1) A person applying under this Act shall have three opportunities in total to be accepted by a Readmissions Panel. Each time the person is not accepted shall count as one "non-accept" decision. Once a total of three "non-accept" decisions have occurred, no further entry into the Readmission process, at any stage, will be possible for that person. A person will however have rights of appeal as set out in section 16 below.
- (2) Following a "non-accept" decision at any stage, a person must wait for the period specified by the Forum, being a minimum period of one year, before making application for Readmission again.
- (3) After a "non-accept" decision at a Readmissions Panel, a person who chooses to re-enter the Readmission process shall start again at section 13, ie at application stage.

#### **Appeals**

16. (1) A Readmissions Applicant shall have the right to appeal to the Ministries Appeal Panel following a third "non-accept" decision at Readmissions Panel. For the avoidance of doubt, no appeal shall be possible after a first or second "non-accept" decision.

- (2) Notification of the intention to appeal shall be made to the Forum and to the Principal Clerk within 14 days of the date upon which the decision of the Readmissions Panel was intimated to the Readmissions Applicant.
- (3) At the Appeal Hearing the Readmissions Applicant shall be entitled to appear either online or in person, as determined by the Forum, and to address the Panel. He or she may be accompanied by a companion, who shall not be entitled to speak to the Panel, but who may confer with the Readmissions Applicant. A representative of the Forum shall also appear to present the case for the decision under appeal. All parties will be in possession of the documents from the Readmissions Panel.
- (4) An appeal to the Ministries Appeal Panel can only be brought on one or more of the following grounds: (a) that in the course of the Readmissions Panel there were irregularities in the process, (b) that the final decision of the Readmissions Panel was influenced by incorrect material fact, or (c) that the Readmissions Panel acted contrary to the principles of natural justice.
- (5) The outcome of an appeal shall be either to uphold the decision of the Readmissions Panel, or to annul that decision, in which case sub-sections (6) and (7) below will apply.
- (6) If the outcome of the appeal is to annul a decision of the Readmissions Panel the person shall be treated as if they had not attended that Readmissions Panel and shall be entitled to attend only one further Readmission Panel and that within one year of the appeal decision. Any further “non-accept” decision on that next attendance shall terminate that person’s eligibility to enter the Readmission process under this Act and there shall be no further right of appeal.
- (7) If the outcome of the appeal is to uphold the decision of the Readmissions Panel, that shall terminate the Readmission process for that person and they may not re-enter into it at any time.

#### **Medical Assessment**

17. (1) A person who is accepted by a Readmissions Panel shall undergo a medical assessment in the form prescribed by the Forum and may only proceed to enter Ministry in the Church of Scotland (subject to section 14(5)) if that assessment is, in the opinion of the Forum, satisfactory. The Forum’s decision shall be final.
- (2) If the medical assessment is unsatisfactory, the person may choose to apply again for Readmission under this Act, provided always that the person must wait for the period prescribed by the Forum, being a minimum period of one year. In this situation the person must consent to undergoing a further medical assessment prior to making the new application and that assessment must be satisfactory in the opinion of the Forum in order for the application to proceed. An unsatisfactory medical assessment on that occasion shall mean that no further entry into the Readmission process is possible for that person.

#### **Type of Certificate**

18. (1) A person who is readmitted into Ministry in the Church of Scotland following acceptance at a Readmissions Panel and subject always to sections 14(5) and 17(1) above, shall be granted a Standard Certificate of Eligibility.

#### **Additional requirements where the person applying for Readmission has been previously judicially deprived of status**



19. If a person has been previously judicially deprived of status as a Church of Scotland minister in terms of Act VII 1935, Act III 2001 or Act I 2019, all as amended, the following additional provisions shall apply in the Readmission process:
- (1) At the application stage, the person must submit a statement as to why they were judicially deprived of status, how they have resolved the issues around their deprivation of status and why they wish to be readmitted to Ministry in the Church of Scotland.
  - (2) The Readmissions Panel shall be entitled to see and take account of the judicial documents relating to the deprivation of status.
  - (3) The Forum shall forward to the Presbytery of residence, or, in the case of an applicant who has not resided in Scotland for three months prior to the date of the application, to the Presbytery of Edinburgh, and also to any Presbytery within whose bounds the applicant was previously appointed as a minister, such documents as are reasonably required (which may include (a) a copy of the application in full and (b) copies of any documents obtained by the Forum) to enable the Presbytery or Presbyteries, as the case may be, to provide the Readmissions Panel with its/their opinion of the application.
  - (4) The Readmissions Panel shall then make its decision on the application in terms of section 14 and sections 15 to 18 may thereafter apply.

## **PART D – GENERAL PROVISIONS**

### **Confidentiality**

20. Each application and all procedure under this Act shall be taken in private by the Forum and by Presbyteries.

### **The Diaconate**

21. The provisions of this Act shall apply, with necessary changes, to members of the diaconal ministry of the Church of Scotland and other Churches. The Forum shall be responsible for determining the interpretation of this Act consistently with the provisions of Act VIII 2010.

### **Repeals and Amendments**

22. The selection and training for full time ministry of Ministers Act (Act IX 2002) shall be repealed on the date this Act comes into force, subject to section 24 below. Any references to Act IX 2002 in other Acts and Regulations of the General Assembly shall from that date be read as references to this Act.

### **Commencement date and transitional arrangements**

23. This Act shall come into force on 24 May 2022.
24. Where a person is in a Familiarisation Placement as at 24 May 2022, such a person shall continue to be subject to the provisions of the Admission and Readmission of Ministers Act (Act IX 2002) until they have been granted a Certificate of Eligibility, or their application expires, whether due to refusal by the Forum to sustain their Familiarisation Placement or otherwise. All other applications for Admission or Readmission to Ministry in the Church of Scotland, whether new or ongoing, and whether such applications commence before or after 24 May 2022, shall from 24 May 2022 be dealt with under the provisions of this Act. Any disputes as to what that shall mean in practice for any particular person shall be resolved by the Forum and its

decision as notified to the individual shall be final and not subject to any right of appeal.

### **III MINISTRIES FOR DEAF CONGREGATIONS ACT (ACT III 2023)**

*Edinburgh, 23 May 2023, Session 9*

The General Assembly enact and ordain as follows:

#### **Congregations of Deaf People**

1. There shall be Church of Scotland fellowships of Deaf People in the following regions:
  - Aberdeen and the North;
  - Edinburgh and the South East; and
  - Glasgow and the South West.
2. These fellowships shall individually be referred to in this Act as a “congregation” and together as the “congregations”. For the avoidance of doubt, there may be more than one fellowship within each region.
3. These congregations will not fall within the planning provisions of the Presbytery Mission Plan Act (Act VIII 2021).

#### **Ministry for the congregations**

4. In respect of each congregation, the Presbytery and the Faith Action Programme Leadership Team shall confer in making the appointment of a person to minister to the congregation (the “Ministry Appointee”). The Ministry Appointee shall be employed by the Faith Action Programme Leadership Team and shall be introduced by the Presbytery.
5. Persons eligible to be a Ministry Appointee shall be as follows:
  - (A) If a Minister, a person who:
    - (a) is a Minister as defined in the Registration of Ministries Act (Act II 2017) in good standing, or who would be eligible to apply for a Certificate of Eligibility under the Admission and Readmission of Ministers Act (Act XIII 2022); and
    - (b) has fulfilled as a minimum the requirements for academic study specified in sections 12 to 14 of the Selection and Training for Full-Time Ministry Act (Act X 2004);
  - OR**
  - (B) If a Deacon, a person who:
    - (c) is a Deacon as defined in the Registration of Ministries Act (Act II 2017) in good standing, or who would be eligible to apply for a Certificate of Eligibility under the Admission and Readmission of Ministers Act (Act XIII 2022); and
    - (d) has fulfilled as a minimum the requirements for academic study specified in section 4 of the Deacons Act (Act VIII 2010);
  - OR**
  - (C) If an Ordained Local Minister or an Auxiliary Minister, a person who:
    - (e) is an Ordained Local Minister or an Auxiliary Minister as defined in the Registration of Ministries Act (Act II 2017) in good standing, or a person who would be eligible to apply for a Certificate of Eligibility under the Admission and Readmission of Ministers Act (Act XIII 2022); and
    - (f) has fulfilled as a minimum the requirements for academic study specified in sections 10 and 11 of the Ordained Local Ministry Act (Act IX 2011);

**OR**

- (D) If a person who is not ordained (but subject to section 6 below), a person who:
- (g) is a member of the Church of Scotland in full communion or a member in good standing of a denomination mentioned in sub-sections 1(2), 1(3) or 1(4) of the Sacraments Act (Act V 2000);
- (h) has fulfilled as a minimum academic study equivalent to that specified in sections 10 and 11 of the Ordained Local Ministry Act (Act IX 2011);
- (i) has experience in participating in and leading worship in different congregational settings; and
- (j) has the ability to carry out effective and empathetic pastoral care;

**AND, in all cases:**

- (k) they shall possess communication skills to a level described by the National Occupational Standard CFALANG4.6, i.e. to “Understand Complex Signed Language in a Wide Range of Work Situations”, failing which they shall be a person who has attained communication skills to a level CFALANG4.5, i.e. to “Understand Extended Signed Language in a Wide Range of Familiar or Work Situations”, in which latter case they shall be appointed subject to a condition of working to improve signed language skills up to CFALANG4.6 within a specified timescale, the appropriate course or method being funded by the Faith Action Programme Leadership Team; and
  - (l) they shall be able to demonstrate substantial and relevant recent experience of working with the deaf community.
6. If the Ministry Appointee is a person who is not ordained and who is thus unable to administer the sacraments, they shall ensure that suitable alternative arrangements are in place.
7. For the avoidance of doubt, a Ministry Appointee in terms of this Act shall be restricted to that ministry, unless they are otherwise qualified to undertake other forms of ministry consistent with the Registration of Ministry Act (Act II 2017).
8. Each Ministry Appointee shall be entitled to the appropriate membership of the relevant Presbytery and shall, if one exists and they are entitled to do so in terms of the Kirk Session Meetings Act (Act VI 2004), moderate the Kirk Session.

**Presbytery membership**

9. Each congregation shall be entitled to appoint a representative elder to the Presbytery within whose bounds the congregation is situated. Each Ministry Appointee who is eligible shall be a member of, and be subject to, the supervision of one Presbytery only. If not a member, the Ministry Appointee may be a Correspondent of the relevant Presbytery.

**Presbytery Mission Initiative or Local Mission Church**

10. It shall be open to the congregations to apply to the Presbytery of the bounds to be a Presbytery Mission Initiative in terms of the Presbytery Mission Initiatives Act (Act V 2015) or a Local Mission Church in terms of the Local Mission Church Regulations (Regs II 2021).

**Deaf interpretation at Presbytery meetings**

11. Presbyteries which have among them members from the congregations shall employ a suitably qualified interpreter as required at Presbytery meetings and shall not rely on

the Ministry Appointee being themselves a member of Presbytery to fulfil this additional function. The cost of the interpreter shall be met by the Presbytery.

### **Congregational Finance**

12. The salary of the Ministry Appointee shall be met from the budget of the Faith Action Programme Leadership Team. Otherwise, each congregation shall be responsible for its own expenses. Where the congregation is not able to meet its expenses, it may seek support from the Presbytery in the first instance failing which the Faith Action Programme Leadership Team.

### **Superintendence of Presbytery and Church law and practice**

13. The congregation shall be subject to the superintendence of the Presbytery and the law and practice of the Church of Scotland.

### **Repeals**

14. The Ministry and Deaf Congregations Act (Act IX 2017) and the Congregations of Deaf People Regulations (Regs II 2017) are hereby repealed.



## **CHURCH COURTS ACT (ACT VI 2023)**

*Edinburgh, 23 May 2023, Session 11*

WHEREAS in terms of the Fourth Article Declaratory, the Church of Scotland as part of the Universal Church wherein the Lord Jesus Christ has appointed a government in the hands of Church office-bearers, receives from him, its Divine King and Head, and from Him alone the right and power subject to no civil authority to legislate, and to adjudicate finally, in all matters of doctrine, worship, government, and discipline in the Church, including the right to determine all questions concerning membership and office in the Church, the constitution and membership of its Courts, and the mode of election of its office-bearers, and to define the boundaries of the spheres of labour of its Ministers and other office-bearers;

Accordingly, in respect of the courts of the Church, the General Assembly hereby enact and ordain as follows:

### **PART 1 - CHURCH COURTS**

#### **1. Broad principle**

1.1 The government of the Church of Scotland is Presbyterian and is exercised through courts, being Kirk Sessions, Presbyteries and General Assemblies, as set out in the Articles Declaratory.

### **PART 2 – KIRK SESSION**

#### **2. Broad principle**

2.1 The Kirk Session is the court which is responsible for the life and witness of the Church of Scotland in a parish.

2.2 The Kirk Session shall exercise oversight and leadership over the congregation's participation in Mission within the parish and the congregation's sharing in the wider work of the Church, through Worship, Service, Fellowship, Discipleship and Evangelism<sup>26</sup>. The Kirk Session shall ensure these facets of church life are held in balance and expressed in ways appropriate to the context.

#### **3. Functions and responsibilities**

3.1 In achieving the broad principle above, the Kirk Session shall fulfill the following functions and responsibilities:-

##### **Witness**

- (1) **Mission:** Develop the congregation's engagement in Mission in terms of section 2.2.
- (2) **Public Worship and Communion:** Determine the hours of public worship and the times of dispensing the Lord's Supper, the latter in terms of the Sacraments Act (Act V 2000), always subject to determination by Presbytery as part of parish adjustment.
- (3) **Pastoral and spiritual care:** Exercise oversight over the pastoral and spiritual

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<sup>26</sup> *These are expanded on in Guidance.*

care of the whole congregation, and offer pastoral care as appropriate across the parish, throughout the whole of life.

### **Congregational life**

- (4) **Office bearers:** Appoint a Clerk and a Safeguarding Coordinator, and where there is no Congregational Board or Deacons' Court, a Treasurer. The Kirk Session may make other appointments as required. The oath *de fideli* shall be administered to a Clerk or Interim Clerk.<sup>27</sup> The Clerk need not be a member of the Kirk Session but while in post shall be a charity trustee.
- (5) **Congregational membership and adherence:** Determine issues of membership and adherence in the congregation and be responsible for keeping a Roll of the congregation which is up to date and retained in accordance with data protection law.
- (6) **Session membership:** Manage membership, including by adding to its number and receiving resignations of its members.
- (7) **Discipline:** Maintain good order in the life of the congregation and respond to the misconduct of members and adherents.
- (8) **Baptisms:** Determine in collaboration with the Minister those to whom the sacrament of baptism may be administered and be responsible for the keeping of a Roll of Baptisms, subject to data protection law and in terms of the Sacraments Act (Act V 2000)
- (9) **Finance and Property:** Be responsible for the financial arrangements and the care of the property belonging to the congregation, including maintenance of a Property Register, unless there is a Congregational Board or Deacons' Court<sup>28</sup>.
- (10) **Church buildings and land:** Exercise rights and responsibilities over Church buildings as set out in section 12 of the Parish Ministry Act (Act II 2018) and, where buildings or land are vested in the Church of Scotland General Trustees, in accordance with any directions given by them in matters of health and safety.
- (11) **Stewardship:** Bring the resourcing needs and commitments of the congregation and wider Church to the attention of members and adherents on a regular basis and encourage generosity in giving of time, talents and money.
- (12) **Oversight of congregational organisations:** Oversee all Sunday Schools and ministries for children, young people and families, congregational organisations and mission work of the congregation.
- (13) **Appointments:** Appoint appropriate persons to work in the congregation to support the Mission of the congregation; fulfil all responsibilities consequentially arising in terms of the civil law on employment; and unless the congregation has a Congregational Board or Deacons' Court, be responsible for the payment of salaries.
- (14) **Communications:** Be responsible for all publications and communications,

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<sup>27</sup> The text concerns the faithful administration of the office: "I swear that I will be faithful to the duties of.....", naming the office concerned.

<sup>28</sup> Reference should be made in particular to the Church Finance Act (Act V 1989), the Congregational Finance Regulations (Regulations II 2016), the Care of Ecclesiastical Properties Act (Act VII 2007) and the Work at Ecclesiastical Buildings Regulations (Regulations I 1998).



including social media, issued in the name of the congregation.

### Church law

- (15) **Compliance:** Carry out the functions and comply with the responsibilities specified in Acts and Regulations of the General Assembly, and comply with instructions of Presbytery and the General Assembly.<sup>29</sup>
- (16) **Rolls and records:** Submit annually to Presbytery for examination the rolls, registers, and records of the congregation and submit for attestation by Presbytery the trustees' report and annual congregational accounts<sup>30</sup>.
- (17) **Conflicts of interest:** Adopt and operate a suitable policy which demonstrates conflicts of interest are recognised and managed effectively.

### Civil law

- (18) **Charity law:** ensure that the congregation is registered as a Charity and that it follows civil charity law and good practice, including the timely submission of accounts for attestation by Presbytery and thereafter to OSCR; also discharge the duties of charity trustees in terms of the civil law on charities, in particular those contained in the Charities and Trustee Investment (Scotland) Act 2005 (as amended).
- (19) **Safeguarding:** fulfil all responsibilities placed upon it in terms of civil law and the Safeguarding Act (Act XVI 2018), ensuring that necessary Safeguarding training is undertaken, that records of such training are maintained, and that the Safeguarding Congregational Register and the Safeguarding Audit Checklist are completed annually.
- (20) **Data protection:** be responsible for fulfilling the provisions of civil law on data protection, in accordance with advice and assistance provided by the national Church offices and Church website.
- (21) **Health and safety law, employment law and other civil law:** comply as required.

### Co-operation with Presbytery

- (22) **Presbytery Elder:** appoint one of their number to serve as a member of the relevant Presbytery.
- (23) **Mission Planning:** take due part in the creation and annual updating of the Presbytery Mission Plan as set out in the Presbytery Mission Plan Act (Act VIII 2021).
- (24) **Vacancy Procedure:** fulfil the various responsibilities set out in the Vacancy Procedure Act (Act VIII 2003).
- (25) **Superintendence:** co-operate with Presbytery as it exercises its general powers of superintendence and in particular participate in the processes of the Local Church Review Act (Act I 2011).

3.2 Where a Kirk Session is a Services Kirk Session in terms of the H.M. Forces (Kirk Sessions) Act (Act VIII 1952), the terms of this Act shall be interpreted and applied with all

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<sup>29</sup> Guidance will highlight particular Acts and Regulations of Assembly of which a Session Clerk should be aware

<sup>30</sup> This includes the Property Register and Manse Condition Schedule.

necessary adaptations.

#### **4. Delegation of authority**

4.1 The Kirk Session may delegate its authority to make decisions in certain areas of responsibility to individuals or committees on such terms as the Kirk Session may determine. The Kirk Session may include in the delegation a mechanism by which Kirk Session members beyond the group can, before a final decision is made by the delegated group, request that the matter come back to a full meeting of the Kirk Session.

4.2 In delegating, the Kirk Session shall ensure that:

- a) all the members of the Kirk Session are aware that as charity trustees they retain responsibility for the decisions made by the delegated group and decisions made by a delegated group will be open to Dissent and Complaint or Appeal in terms of the Intimation of Appeals Act (Act V 2004).
- b) it identifies at a full meeting of the Kirk Session the individual or the membership of the group to which the powers are to be delegated including lines of accountability.
- c) it sets out in an agreed minute the extent of the delegated powers including if appropriate reference to the relevant Act(s) and/or Regulations of the General Assembly regarding the decisions the group is charged with making, the budget limits within which they must work, and the point at which the group must refer decision-making back to a full meeting of the Kirk Session.
- d) it minutes its acceptance that decisions made by the group are final and cannot be recalled or rescinded by the Kirk Session save where the mechanism permitted by section 4.1 has been included in the scheme of delegation.
- e) no further delegation is possible by the delegated group without the consent of the Kirk Session.

4.3 Delegation, once made, may thereafter be rescinded or amended by the Kirk Session but not on a retrospective basis and such rescission or amendment shall only become effective once intimated to the members of the delegated group.

#### **5. Meetings**

5.0 Kirk Session meetings shall normally be held in public but may be held in private for the whole or part of a meeting where the Session so determines for items of business which are personal, disciplinary or are of a pastoral or commercially sensitive nature.

##### **5.1 Calling meetings**

5.1.1 Ordinary Meetings shall be called by the Kirk Session at a previous Ordinary Meeting. The Kirk Session may call one or more such meetings at a time. Normally public notice of at least ten days (and including two Sundays) of a meeting shall be given. Elders may also be notified by hard copy letter, by electronic means, by telephone call, or by a combination of these methods.

5.1.2 A Specific Purpose Meeting shall be called either at an Ordinary Meeting or, where the need arises between Ordinary Meetings, it may be called by the Moderator on the advice of the Clerk. The first item of business at a Specific Purpose Meeting called by the Moderator shall be the approval of the Moderator's decision to call the meeting. No other business beyond the specific purpose previously intimated shall be discussed at such a meeting.

5.1.3 The calling of a Specific Purpose Meeting called by the Moderator shall be in writing with a period of notice of at least fourteen days, provided that in exceptional circumstances a shorter period of notice may be given, and in this event the first item of business shall be approval of the shorter period of notice.

5.1.4 The Moderator must call a Session meeting to be held within ten days on the instruction of the relevant Presbytery.

5.1.5 In addition, the Moderator must call a Session meeting to be held within ten days where he or she is requested in writing to do so by either of the following groups: (1) a majority of the ruling Elders, or (2) where the ruling Elders exceed nine in number, at least one-third with a minimum of five.

5.1.6 In each year, in addition to the regular conduct of business, the Session must:

- a) review and approve the Communion Roll and Supplementary Roll,
- b) approve the trustees' report and accounts of the congregation for the preceding financial year,
- c) review and approve the Safeguarding Register, and
- d) appoint the Presbytery Elder,

all in accordance with Church law.

## **5.2 Procedure at meetings**

5.2.1 Meetings shall be constituted and closed with prayer.

5.2.2 All meetings shall be minuted, with the minute of each meeting being circulated in draft following the meeting and being subject to approval at the start of the following ordinary meeting. The minute shall record the date, time, and (if in person) place of the meeting, the name of the Moderator, attendees (including apologies) and decisions made and actions taken. Minutes shall be retained as set out in the Guidance.

5.2.3 The minute of a meeting (or part of it) held in private shall be in held in a Record Apart.

5.2.4 Meetings may take place in person, or online, or by a combination of these methods. Where the meeting is online to any extent, the Moderator shall ensure that those attending can participate, debate and vote and that this can be done in private where required.

5.2.5 A person who is not a member of the Kirk Session, whether or not a member of the congregation, may attend a Session meeting (except to the extent that it is being held in private). Where a meeting is held wholly online and a person not a member of the Kirk Session wishes to observe those parts of the meeting not held in private, a web link shall be provided upon request. A person who is not a member of the Kirk Session shall require permission of the Kirk Session to speak on a particular item (or items) of business, which may be a standing permission<sup>31</sup>. A request to speak shall be made by submitting it in writing to the Session Clerk, normally at least seven days in advance of the date of the meeting. The request shall then be considered at the meeting of the Kirk Session in question.

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<sup>31</sup> For example, this might be granted to a treasurer who is not an elder.

5.2.6 The Standing Orders of the General Assembly shall apply as matter of default to Kirk Session meetings, but a Kirk Session may adopt Standing Orders of its own provided these are not incompatible with Church law.

### **5.3 Moderator and Interim Moderator**

#### **5.3.1 Moderator**

5.3.1.1 The Minister of the charge shall be the Moderator of the Kirk Session, save where other arrangements are specified in a Basis of Team Ministry. Otherwise the Kirk Session may be moderated by an Interim Moderator as set out below or as set out in the Kirk Session Meetings Act (Act VI 2004).

5.3.1.2 The Moderator of the Kirk Session while in the chair has a casting vote but no deliberative vote. He or she may introduce items of business and may speak to them.

#### **5.3.2 Interim Moderator**

5.3.2.1 The Presbytery may appoint an Interim Moderator of the Kirk Session. This shall normally be done when the charge is vacant, or when the Minister is on sick leave or has been granted leave of absence. It may also be done in anticipation of an impending vacancy, while the Minister is still in office, to deal with adjustment and vacancy business. An Interim Moderator shall normally be appointed where the Minister's absence has extended to, or is anticipated to last, for more than six weeks.

5.3.2.2 Where the relevant Presbytery appoints an Interim Moderator, the Interim Moderator shall be either a ministerial member of the Presbytery in terms of this Act or the Presbytery Assessors Act (Act V 2001) or a member of the Presbytery selected from the Presbytery's list of those who have received such preparation for the task as the Faith Action Programme Leadership Team shall from time to time recommend or provide.

### **5.4 Quorum**

5.4.1 The quorum of a Kirk Session shall be three, being the Moderator, Interim Moderator or appointee in terms of the Kirk Session Meetings Act (Act VI 2004), plus two ruling Elders.

5.4.2 If there be not a sufficient number of ruling Elders available to make a quorum, or in cases of difficulty at the discretion of the Presbytery, Assessor Elders may be appointed by the Presbytery. When appointing Assessor Elders, Presbytery shall state whether or not the Assessor Elders have a vote in Session business; those appointed with voting rights shall be charity trustees from the date of their appointment until they are discharged. The appointment of Assessor Elders shall be reviewed annually.

## **6. Membership of the Kirk Session**

6.1 The Kirk Session shall consist of the Minister(s) of the parish, any associate Minister or parish Deacon if qualified as set out below, and the ruling Elders of the congregation. All members of the Session shall have the right to vote.

6.2 An associate Minister or parish Deacon introduced in terms of section 32(4) of the Vacancy Procedure Act (Act VIII 2003), shall be a member of the Kirk Session. Where there is a Team Ministry, all Ministers shall be members of the Kirk Session. Any other Minister or Deacon may be associated in the practical work of the Kirk Session of the congregation on

the invitation of the Kirk Session, with the right to attend meetings and to speak, but not to vote, and shall not be a member of the Kirk Session.

6.3 Where there is no Congregational Board or Deacons' Court, the Kirk Session shall also appoint a Treasurer who need not be an Elder nor member of the congregation, but who shall, while in post, assume the duties and obligations of charity trusteeship.

6.4 Members of the Kirk Session along with members of the Congregational Board or Deacons' Court, though not Correspondents, shall be charity trustees of the congregation for the purposes of civil charity law. Other persons may be charity trustees for the purposes of civil charity law according to that congregation's constitution.

6.5 The Kirk Session may appoint Correspondents, who shall have the following rights in respect of meetings: to receive papers, to attend and to speak but not to vote. A Correspondent need not be a member of the congregation. A Correspondent shall not be present when business is taken in private.

6.6 A locum in a vacancy shall not be a member of a Kirk Session but if the Kirk Session so decides may be invited to attend Kirk Session meetings and allowed to speak.

6.7 Elders shall be elected, ordained and admitted to the Kirk Session in terms of the Election and Admission of Elders and Deacons Act (Act X 1932). Such Act includes provision for Elders to be admitted to the Kirk Session on the basis of fixed term membership. The minimum age for an Elder is eighteen years. The Kirk Session shall keep the number of ruling Elders under review, for efficient operation.

6.8 An Elder who ceases to be a member of a Kirk Session does not, if he or she transfers to another congregation, thereby become a member of its Kirk Session but may do so upon invitation.

6.9 A Kirk Session may agree to accept a standing apology from a ruling Elder for all meetings occurring between specified dates on cause shown. If agreed to, such an Elder remains a charity trustee and shall continue to be supplied with documents for all Session meetings.

6.10 Where (i) a ruling Elder fails to attend Kirk Session meetings for a period of twelve months without submitting apologies for their absence, or (ii) a Session determines that a ruling Elder is not, whether through infirmity, illness or otherwise, participating sufficiently in Kirk Session business, the Session may, having first invited the person to offer reasons for their absence or lack of participation and assurances regarding their future involvement, remove that person from the membership of the Session. The Session Clerk will write to that person to confirm that they have been removed from the membership of the Session. From the date of their removal they will no longer be a charity trustee<sup>32</sup>.

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<sup>32</sup> *Although such a person would retain the status of Elder.*

## **7. Relationship with other Church Courts**

7.1 A Kirk Session, as the inferior court, is answerable to the Presbytery and, as such, must obey the instructions of the Presbytery and the General Assembly. As such, appeals against decisions of Kirk Sessions shall be heard and disposed of by the Presbytery or those to whom the Presbytery delegates such authority.

7.2 Relationships with other Kirk Sessions may be governed by Bases, such as a Basis of linking or parish grouping, approved by Presbytery in terms of the Presbytery Mission Plan Act (Act VIII 2021). Where decisions are required to be made, two or more Kirk Sessions may meet in conference but they require to meet separately (and this may be in the same place at the same time) to make their own decisions<sup>33</sup>.

7.3 Where a Kirk Session becomes aware of difficulties in the congregation or Session which it cannot itself resolve, it shall make the Presbytery aware of the situation or where Presbytery itself becomes aware of such circumstances, the Presbytery shall proceed to take appropriate action.

7.4 Whenever a Kirk Session meeting is called by the authority of the Presbytery in terms of the Local Church Review Act (Act I 2011) or the Presbytery Mission Plan Act (Act VIII 2021) or for any other purpose relating to the superintendence of the congregation by the Presbytery, the representative of Presbytery appointed to moderate the meeting shall determine whether on any occasion the Kirk Session shall meet without the presence of the Minister.

## **8. Appeals**

8.1 Decisions of the Kirk Session are subject to appeal, and any such appeal shall be heard by the relevant Presbytery, or those to whom the Presbytery delegates authority. An appeal against a decision of the Kirk Session can be made only by a person described in the Intimation of Appeals Act (Act V 2004) and an appeal must be intimated in accordance with the provisions of that Act.

## **PART 3 - PRESBYTERY**

### **9. Broad principle**

9.1 Presbytery is the court which is responsible for the gathered life of the Church of Scotland. This responsibility is both corporate and individual, and rests on members and office-bearers alike. The collective task is the support and oversight of the local church as well as participating in the life of the Church at General Assembly level.

9.2 Each area of Scotland shall be covered by such a Presbytery and each local expression of church belonging to the Church of Scotland shall be subject to the oversight of the relevant Presbytery.

9.3 In addition, there shall be Presbyteries which oversee Church of Scotland congregations furth of Scotland.

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<sup>33</sup> *ie there should be separately minuted decisions and two or more Kirk Sessions may not make joint decisions.*

## 10. Functions and responsibilities

10.1 The Presbytery shall exercise oversight and leadership over the local church's participation in Mission and promote sharing in the wider work of the Church. To that end the Presbytery shall fulfil the following functions and take such other initiatives as the Presbytery see fit (subject always to Church law):-

### Support and Oversight of the Local Church

- (1) create, implement and maintain the Presbytery Mission Plan as specified in the Presbytery Mission Plan Act (Act VIII 2021).
- (2) oversee Vacancy Procedure as set out in the Vacancy Procedure Act (Act VIII 2003).
- (3) carry through the process of Local Church Review as set out in the Local Church Review Act (Act I 2011).
- (4) provide pastoral care to parish Ministers and parish Deacons<sup>34</sup>.
- (5) annually examine and attest rolls, records, minutes, registers, expense claims, and accounts.

### Superintendence

- (6) exercise general powers of superintendence.
- (7) exercise discipline over Ministers, Deacons, Elders and local office bearers in terms of the Discipline Act (Act I 2019) and provide pastoral care to those involved in the discipline process.
- (8) operate the Complaints Procedure as approved by the General Assembly.
- (9) hear and dispose of appeals against the decision of a Kirk Session.

### Resourcing Congregations

- (10) provide resources or identify access to resources for congregations and other expressions of local church life as set out in Church law or as the Presbytery may determine.
- (11) fulfil its responsibilities in relation to Readers in terms of the Readership Act (Act XVII 1992), to Ordained Local Ministers in terms of the Ordained Local Ministry Act (Act IX 2011) and to Auxiliary Ministers in terms of the Auxiliary Ministers Act (Act XIII 2003).
- (12) select, train and maintain lists of worship leaders in terms of the Parish Ministry Act (Act II 2018).

### Beyond the Church

- (13) order itself in such a way that the local church can gain a collective voice to speak with those representing civil authority, other denominations, other faith groups, the Third Sector, business interests, and cultural life.

### General Assembly processes

- (14) participate in any Presbytery Review process<sup>35</sup>.
- (15) cooperate with agencies and officials of the General Assembly as they fulfil their remits.

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<sup>34</sup> *The expectation is that those who have their own Minister receive pastoral care from them.*

<sup>35</sup> *A Presbytery Review process is under development.*

- (16) nominate and supervise Candidates for the Ministry of Word and Sacrament and the Diaconate.
- (17) provide such information regarding statistics, office bearers, and finance as required by Church law.
- (18) respond timeously to General Assembly remits and ensure compliance with the requirements of the Barrier Act.

### **Good order**

- (19) ensure good order in the conduct of its shared life.
- (20) carry out the functions and comply with the responsibilities specified in Acts and Regulations of the General Assembly, and comply with instructions of the General Assembly.
- (21) elect a Moderator from amongst its number. Such an appointment shall be in terms of the Presbytery's Standing Orders but, for the avoidance of doubt, may be for a period of time of at least one year and of the Presbytery's choosing.
- (22) appoint a Clerk and in the absence of the Clerk from any meeting, appoint an Interim Clerk. The Clerk need not be a member of the Court. The oath *de fideli* shall be administered to a Clerk or Interim Clerk.<sup>36</sup>
- (23) ensure that the Roll of Presbytery is kept up to date and retained in accordance with Data Protection law.
- (24) appoint appropriate persons to work in the Presbytery to support the mission of the Presbytery; fulfil all responsibilities consequentially arising in terms of the civil law on employment; and be responsible for the payment of salaries.
- (25) adopt and operate a suitable policy to recognise and manage conflicts of interest effectively and demonstrably.

### **Civil Law**

- (26) ensure that the Presbytery is registered as a Charity and follows civil charity law and good practice, including the timeous submission of Presbytery accounts to OSCR.
- (27) ensure that the duties of charity trustees in terms of the civil law on charities, in particular those contained in the Charities and Trustee Investment (Scotland) Act 2005 (as amended) are discharged.
- (28) attest all congregational trustees' reports and annual accounts prior to their submission to OSCR.
- (29) cooperate with the Assembly Trustees on matters of charity governance.
- (30) fulfil all responsibilities placed upon the Presbytery in terms of civil law and the Safeguarding Act (Act XVI 2018), including the provision of Safeguarding training and maintenance of records of such training, and the annual completion of the Safeguarding Audit Checklist.
- (31) act as the data controller, in terms of the Data Protection Act 2018, for congregations within its bounds and be responsible for registering as such with the Information Commissioner's Office.
- (32) fulfil the provisions of civil law on data protection, in accordance with advice and assistance provided by the national Church offices and Church website.

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<sup>36</sup> The text concerns the faithful administration of the office: "I swear that I will be faithful to the duties of.....", naming the office concerned.



(33) comply as required with health and safety law, employment law and other civil law.

## **11. Delegation of authority**

11.1 The Presbytery may delegate their authority to make decisions in certain areas of responsibility to individuals or committees on such terms as the Presbytery may determine. The Presbytery may include in the delegation a mechanism by which Presbytery members beyond the group can, before a final decision is made by the delegated group, request that the matter come back to an Ordinary Meeting of the Presbytery.

11.2 In delegating, the Presbytery shall ensure that:

- a) all the members of the Presbytery are aware that as charity trustees they retain responsibility for the decisions made by the delegated group and decisions made by a delegated group will be open to Dissent and Complaint or Appeal in terms of the Appeals Act (Act I 2014).
- b) they identify at an Ordinary Meeting the individual or the membership of the group to which the powers are to be delegated including lines of accountability.
- c) they set out in an agreed minute the extent of the delegated powers including if appropriate reference to the relevant Act(s) and/or Regulations of the General Assembly regarding the decisions the group is charged with making, the budget limits within which they must work, and the point at which the group must refer decision-making back to an Ordinary Meeting of the Presbytery.
- d) they minute their acceptance that decisions made by the group are final and cannot be recalled or rescinded by the Presbytery save where the mechanism permitted by section 11.1 has been included in the scheme of delegation.
- e) No further delegation is possible by the delegated group without the consent of the Presbytery.

11.3 Delegation, once made, may thereafter be rescinded or amended by the Presbytery but not on a retrospective basis and such rescission or amendment shall only become effective once intimated to the members of the delegated group.

## **12. Meetings**

12.0.1 Meetings of Presbytery shall be Ordinary Meetings (where any appropriate business may be discussed) or Specific Purpose Meetings (where only previously intimated business may be discussed).

12.0.2 All meetings of Presbytery shall be open to the public except when the Presbytery decides to meet in private for the whole or part of a meeting for items of business which are personal or are of a pastoral, disciplinary or commercially sensitive nature.

12.0.3 Papers for meetings shall normally be circulated in advance.

### **12.1 Calling meetings**

12.1.1 Ordinary Meetings shall be called by the Presbytery at a previous Ordinary Meeting. The Presbytery may call one or more such meetings at a time. Presbyters may be notified by hard copy letter, by electronic means, by telephone call or by a combination of these methods.

12.1.2 A Specific Purpose Meeting shall be called either at an Ordinary Meeting or, where the need arises between Ordinary Meetings, it may be called by the Moderator on the advice of the Clerk. The first item of business at a Specific Purpose Meeting called by the Moderator shall be the approval of the Moderator's decision to call the meeting. No other business beyond the specific purpose previously intimated shall be discussed at such a meeting.

12.1.3 The calling of a Specific Purpose Meeting called by the Moderator shall be in writing with a period of notice of at least fourteen days, provided that in exceptional circumstances a shorter period of notice may be given, and in this event the first item of business shall be approval of the shorter period of notice.

## **12.2 Procedure at meetings**

12.2.1 Meetings shall be constituted and closed with prayer.

12.2.2 All meetings shall be minuted, with the minute of each meeting being circulated in draft following the meeting and being subject to approval at the start of the following meeting. The minute shall record the date, time, and (if in person) place of the meeting, the name of the Moderator, attendees and decisions made and actions taken. Minutes shall be retained as set out in the Guidance.

12.2.3 The minute of a meeting (or part of it) held in private shall be in held in a Record Apart.

12.2.4 Meetings may take place in person, or online, or by a combination of these methods. Where the meeting is online to any extent, the Moderator shall ensure that those attending can participate, debate and vote and that this can be done in private where required.

12.2.5 The agenda for an Ordinary Meeting shall include the updating of the Roll of Presbytery and the calling of the next Ordinary Meeting.

12.2.6 A person who is not a member of the Presbytery, whether or not a member of a congregation within the relevant Presbytery, may attend a Presbytery meeting (except to the extent that it is being held in private) but shall require permission of the Presbytery to speak on a particular item (or items) of business. A request to speak shall be made by submitting it in writing to the Presbytery Clerk, normally at least seven days in advance of the date of the meeting. The request shall then be considered at the meeting of the Presbytery in question. Nothing in this section precludes other rights to address Presbytery<sup>37</sup>.

12.2.7 Meetings shall be conducted in line with the Presbytery's Standing Orders and where there is no such provision the Standing Orders of the General Assembly shall apply as appropriate. Where the Presbytery have Standing Orders they shall be published on the Presbytery's website.

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<sup>37</sup> See Guidance for further details.

### **12.3 Moderator**

12.3.1 The Moderator of the Presbytery shall be chosen from among the members of the court by free election, on the recommendation of the Business or other Committee of Presbytery, and shall hold office for a year at least and be eligible for re-election.

12.3.2 The Moderator while in the chair has a casting vote but no deliberative vote.

### **12.4 Quorum**

12.4.1 The quorum for a Presbytery meeting shall be three members of the Court, at least one of whom shall be a Minister and one an Elder.

## **13. Membership of Presbytery**

13.0.1 Ministers, Deacons and Elders, and no others, shall be entitled to be members of Presbytery.

13.0.2 Members of the Presbytery, though not Correspondents, shall be charity trustees of the Presbytery for the purposes of civil charity law. Other persons who participate in the general control and management of the administration of the Presbytery may be charity trustees for the purposes of civil charity law.

### **13.1 Ministers**

13.1.1 A Minister shall be a member of the Presbytery where there is situated: -

- a) the charge to which a Minister has been inducted or within which the Minister serves as associate, assistant, or auxiliary, failing which
- b) the office, institution or other place from which a Minister works, failing which
- c) wholly or mainly the area of a Minister's responsibility, provided that, if the area extends over the boundaries of more than one Presbytery, the Presbytery containing the larger or largest part of that area shall be the relevant Presbytery.

13.1.2 A Minister in any of the following categories shall be a member of the relevant Presbytery:

- a) a Minister inducted to a charge,
- b) an associate Minister,
- c) a pioneer Minister,
- d) an interim or transition Minister,
- e) an assistant Minister,
- f) an Ordained Local Minister or an auxiliary Minister in a designated appointment,
- g) a healthcare chaplain,
- h) a prison chaplain,
- i) a workplace chaplain,
- j) a university chaplain, and
- k) a professor or lecturer in an accredited institution as defined in Act X 2004.

13.1.3 A Minister in any of the following categories shall be a member of the relevant Presbytery or, if there is no such Presbytery, of the Presbytery to which he or she belonged at the time of appointment or by which he or she was ordained for the appointment:

- a) a Minister appointed by a Committee of the Church to an overseas post,
- b) a Minister appointed to a Commission as a chaplain to H.M. Forces.

13.1.4 A Minister appointed to a post, other than those in sections 13.1.2 and 13.1.3 above and other than that of *locum* for a parish Minister, within the jurisdiction of the Church and under the direction and control of one of its courts or Committees, shall be a member of the relevant Presbytery or of the Presbytery within which is situated the congregation of which he or she is a member or of the Presbytery within the boundaries of which he or she resides, as he or she may choose.

13.1.5 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 sections 13.1.2 to 13.1.4 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 II 2017)) in category O, E or R. Such Minister should be registered with the Presbytery within the boundaries of which is situated the congregation of which the Minister is a member, or the Presbytery within the boundaries 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 boundaries of which the appointment is based, as he or she may choose.

## **13.2 Deacons**

13.2.1 A Deacon shall be a member of Presbytery if he or she occupies a parish appointment, or any other post that would entitle a Minister to membership of Presbytery in terms of sections 13.1.2 to 13.1.4 of this Act, and the provisions of those sections shall determine which is the relevant Presbytery. A Deacon who does not occupy such a parish appointment, or other qualifying post, but who is registered on the Register of Ministry in Category E or R, shall be entitled to apply for membership of Presbytery on the same basis as a Minister holding Category E or R registration, being in terms of section 13.1.4 of this Act and the Presbytery shall have power to decide whether or not to register such individual.

## **13.3 Elders**

13.3.1 Each Kirk Session within the boundaries of a Presbytery shall, not later than 30<sup>th</sup> June in each year, meet, and, with the exception undernoted, elect one of its own members (or, with permission of the Presbytery, a member of another Kirk Session within the relevant Presbytery) to represent it in the Presbytery during the ensuing year.

13.3.2 Commissions in favour of representative Elders shall run from 1st July to 30th June and may be presented to any meeting of Presbytery held after the close of the General Assembly, providing a quorum is present apart from the Elder whose commission is presented. On the commission being declared in order the Elder concerned shall be entitled to take his or her seat.

13.3.3 In the event that a representative Elder becomes unable to serve during the year, the Kirk Session shall elect a replacement Elder and shall notify the Presbytery. The replacement Elder's commission shall run until the following 30th June.

13.3.4 A Presbytery shall elect one Elder (a "balancing Elder") in respect of each Minister who serves in an extra-parochial appointment or who is a member of Presbytery by virtue of section 13.1.5, and may further elect a number of additional Elders not in excess of one-third of the number of congregations within its boundaries. Such Elders shall be:

- a) a member of a Kirk Session within the boundaries of the Presbytery and before taking their seats they shall produce certificates of bona fide eldership from the Kirk Sessions to which they belong, or
- b) an ordained elder who is not currently a member of a Kirk Session but who is a member of a congregation within the boundaries of the Presbytery and can exhibit certification that he/she is in good standing and has not been deprived of the status of elder in a disciplinary process.

The Presbytery shall determine the process for identifying and selecting such Elders.

#### **14. Correspondents**

14.1 A Presbytery may elect Correspondents, who shall have the following rights in respect of meetings: to receive papers, to attend and to speak but not to vote. A Correspondent need not be a Minister, Elder or Deacon of the Church of Scotland. A Correspondent shall not be present when business is taken in private.

#### **15. Relationship with other Church courts**

15.1 The Presbytery, as the superior court, has oversight of the Kirk Session and has the power to instruct Kirk Sessions and Financial Boards to act or to refrain from acting always in accordance with the Acts and Regulations of the General Assembly and the common law of the Church.

15.2 The Presbytery shall hear and dispose of appeals against decisions taken by Kirk Sessions.

15.3 The Presbytery, as the inferior court, is answerable to the General Assembly and, as such, must obey the instructions of the General Assembly. Appeals against decisions of Presbytery shall be heard and disposed of by the General Assembly or those to whom the General Assembly delegates such authority.

15.4 The Presbytery shall send Commissioners to the General Assembly. These shall be elected by the Presbytery in accordance with the Standing Orders and Acts of the General Assembly.

15.5 The Presbytery shall cooperate with the General Assembly as they exercise general powers of superintendence and conduct the process of Presbytery Review.

#### **16. Appeals and reviews**

16.1 Decisions of the Presbytery are subject to appeal or review, and such an appeal or review shall be heard by the appropriate appellate body of the General Assembly. Appeals shall be in terms of the Appeals Act (Act I 2014). Presbytery Mission Plan decisions shall be subject to review in terms of the Presbytery Mission Plan Act (Act VIII 2021).

### **PART 4 – GENERAL ASSEMBLY**

#### **17. Broad Principle**

17.1 The General Assembly is the supreme court of the Church in matters of Church law, doctrine and practice. It sets a strategy for national agencies of the Church. Its decisions

(or those of its delegated bodies) in appeals are final. Its decisions in matters spiritual are not subject to review by any civil court.

## **18. Functions and responsibilities**

18.1 The General Assembly has legislative, judicial and administrative functions and responsibilities. Amongst other things, the General Assembly shall:

- (1) Meet and debate and decide upon a range of issues brought to it by commissioners, Standing Committees, Presbyteries and other component elements of the Church.
- (2) Appoint and direct its Standing Committees and hold them to account.
- (3) Pass, amend and repeal Acts and Regulations and agree sections of deliverance.
- (4) Exercise oversight of Presbyteries.
- (5) Be the final court of appeal in certain matters, save where that function has been delegated as set out in more detail in section 20.1 below.
- (6) Welcome and converse with delegates from other denominations in the UK and from churches in other countries.

18.2 Through exercising these functions and responsibilities, the General Assembly shall aim to:

- (1) Provide general order to the life of the whole Church of Scotland.
- (2) Create a sense of belonging and occasion for commissioners from across the Church and in doing so provide support, inspiration and information to members.
- (3) Celebrate being a national Church and a part of the Universal Church.
- (4) Provide a platform from which to increase the public profile of the work of the Church.

## **19. Meetings of the General Assembly**

19.0.1 Meetings of the General Assembly may be held in-person, online or in hybrid form, ie with some members present in-person and others simultaneously present online. Each of in-person, online or in hybrid form is referred to as a “format” in this section 19.0.

19.0.2 The Assembly Business Committee shall in its Report propose the date for, meeting place and format of the next General Assembly. The General Assembly shall in its closing session pass an Act appointing the next General Assembly, in terms of the decision made under the Report of the Assembly Business Committee.

19.0.3 Where it subsequently becomes apparent that the date, meeting place and/or format specified by one Assembly for the next Assembly should be reconsidered, the Legal Questions Committee shall call a Commission of Assembly in terms of the Commission of Assembly Act (Act VI 1997) and the Assembly Business Committee shall bring forward alternative proposals regarding date, meeting place and/or format for consideration by the Commission.

19.0.4 The Assembly Business Committee shall be responsible for making the practical arrangements for the holding of a General Assembly, in line with the decisions of the previous Assembly or a subsequent Commission of Assembly.

19.0.5 Where a meeting of the General Assembly is online to any extent, the Moderator shall ensure that those attending can participate, debate and vote as set out in the Standing Orders.

19.0.6 At its closing session, that General Assembly shall be dissolved.

### **19.1 Procedure at meetings**

19.1.1 The Standing Orders shall make provision for procedure at sessions of the General Assembly.

19.1.2 An Order of Proceedings, containing amongst other things a proposed Order of Business, the Roll of Commissioners and the text of the Standing Orders, shall be sent to Commissioners in advance of the General Assembly, in terms of the Standing Orders.

19.1.3 The Standing Orders shall be published on the Church of Scotland website.

19.1.4 Only the General Assembly may amend the Standing Orders.

19.1.5 The Standing Orders shall apply to Presbyteries and Kirk Sessions, in a form incorporating changes necessary to their circumstances, where such courts have not agreed standing orders of their own. Alternatively, Presbyteries and Kirk Sessions may agree and put in place their own standing orders provided these are not incompatible with Church law.

### **19.2 Moderator**

19.2.1 The Moderator shall be appointed in terms of the Nomination of the Moderator of the General Assembly Regulations (Regs I 2013).

19.2.2 The Moderator of the General Assembly shall hold office from the time of his or her election by the General Assembly until he or she demits office upon the election of his or her successor. In the event of the death or supervening incapacity of the Moderator during his or her year of office, one or more former Moderators shall be invited by the Assembly Business Committee to fulfil the duties of the office until the opening day of the next General Assembly.

19.2.3 The Moderator may appoint Chaplains to provide advice and support throughout his or her term of office.

19.2.4 The Moderator shall be responsible for moderating sessions of the General Assembly and for all acts of worship at the Assembly. The Moderator shall fulfil other duties as set out in the Office of the Moderator of the General Assembly Regulations (Regs II 2013).

19.2.5 The Moderator while in the chair has a casting vote but no deliberative vote.

### **19.3 Quorum**

19.3.1 The quorum of the General Assembly shall be thirty-one, of whom not fewer than sixteen shall be Ministers. Further provision as to quorum shall be set out in the Standing Orders.

## **20. Continuing authority of the General Assembly, delegation of authority and method of accountability**

20.1 Notwithstanding the dissolution of a particular gathering of the General Assembly at its closing session, the General Assembly's authority continues, in terms of the Acts, Regulations, decisions and instructions made, and the powers delegated which may include the following:

- a) To certain judicial bodies established by the General Assembly to act as the final arbiter in certain types of appeal<sup>38</sup>. The decisions of these judicial bodies shall be reported to the next General Assembly by the provision of minutes to the General Assembly.
- b) To certain Standing Committees to continue work and make decisions in its name. Activities undertaken and decisions so made shall be reported back to the General Assembly.
- c) To appoint and instruct others such as Special Commissions or Special Committees to carry out work on its behalf. Such delegates shall report back to the General Assembly on their work.
- d) To the Legal Questions Committee, through its Secretary, the Principal Clerk, to ensure compliance with Church law in the periods between meetings of the General Assembly.
- e) Between General Assemblies, to the Commission of Assembly in terms of the Commission of Assembly Act (Act VI 1997). The decisions of the Commission shall be reported to the next General Assembly.

20.2 The Standing Committees of the General Assembly<sup>39</sup> shall be determined from time to time by the General Assembly and listed in the Standing Orders. The delegated authority of Standing Committees may only be amended with the approval of the General Assembly or of a Commission of Assembly.

## **21. Membership of the General Assembly**

21.0.1 The General Assembly shall be composed of Ministers, Deacons and Elders commissioned by Presbyteries to that role, together with other members by virtue of office (*ex officio*). The Standing Orders shall make provision for other attendees at the Assembly, such as delegates, visitors, corresponding members (Correspondents) and youth representatives.

21.0.2 The Commissioners from Presbyteries shall be appointed as follows:

### **21.1 Ministers**

21.1.1 The number of Ministers to be appointed as commissioners by each Presbytery shall be one in every five or part of five of the sum of (a) the total number of charges, whether vacant or not, in the Presbytery and (b) the total number of other Ministers who are members of Presbytery by virtue of being in appointments qualifying them for such membership in terms of this Act, provided that, for the avoidance of doubt, Ministers who are members of

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<sup>38</sup> Currently these are (i) the Appeals Committee of the Commission of Assembly and the Judicial Commission in terms of the Appeals Act (Act I 2014), (ii) the Ministries Appeal Panel in terms of the Ministries Appeal Panel Act (Act VII 2007) and (iii) reviews held under the Presbytery Mission Plan Act (Act VIII 2021).

<sup>39</sup> These include in practice bodies of different names and functions, such as Forums, Councils, Committees, Panels, Commissions and Trusts.



Presbytery by virtue of being in category R shall not be included in the above total for the purposes of calculating the number of commissioners, but shall be eligible to be appointed as commissioners. Only Ministers who are members of the appointing Presbytery shall be eligible to hold commissions as Ministers.

## **21.2 Elders**

21.2.1 The number of Elders to be appointed as commissioners by each Presbytery shall be equal to the number of Ministers appointed in terms of section 21.1.1 above. Only Elders who are members of Kirk Sessions or New Charge Core Groups within the boundaries of the appointing Presbytery, or who are elected members of Presbytery, shall be eligible to hold commissions as Elders.

## **21.3 Deacons**

21.3.1 The number of Deacons who may be appointed as commissioners by each Presbytery shall be one in every five, or part of five, of those who are members of Presbytery by virtue of being in appointments qualifying them for such membership in terms of this Act, provided that, for the avoidance of doubt, Deacons who are members of Presbytery by virtue of being in category R shall not be included in the above total for the purposes of calculating the number of commissioners, but shall be eligible to be appointed as commissioners. Only Deacons who are members of the appointing Presbytery shall be eligible to hold commissions as Deacons.

## **21.4 Failure to appoint**

21.4.1 Each Presbytery shall normally be expected to appoint its full number of commissioners each year; but in the event of failure to do so the Presbytery concerned shall submit to the Clerks of Assembly upon request a statement of the reason for such failure, and the Committee on Commissions may, if not satisfied with the reason given, report accordingly to the General Assembly.

## **21.5 Office-holder Members**

21.5.1 The General Assembly shall appoint a Principal Clerk, a Depute Clerk (together the Clerks of Assembly), a Procurator and a Law Agent, who upon appointment shall each take the oath *de fidelit*<sup>40</sup>. In the event of a vacancy in office during a General Assembly, an interim appointment may be made by the General Assembly.

21.5.2 The Clerks of Assembly, Procurator, and Law Agent, together with the Convener and Vice-Convener of the Procedure Committee upon their election, shall be members of the General Assembly by virtue of office (*ex officiis*).

21.5.3 The Moderator of the General Assembly shall, upon election, be by virtue of office a member of the General Assembly, and shall also, by virtue of having held that office, be a member of the General Assembly during which his or her demission from office takes place.

21.5.4 The five most recent past Moderators who are (i) eligible to receive a Commission, and (ii) not members of the Assembly by virtue of section 21.5.3 or otherwise members by

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<sup>40</sup> *The text concerns the faithful administration of the office: "I swear that I will be faithful to the duties of.....", naming the office concerned.*

virtue of office (*ex officio*), shall be members of the General Assembly by virtue of office. They shall be appointed in addition to their Presbytery's number of Commissions in terms of section 21.1 but no equalizing Minister or Elder shall be appointed. Their Presbytery shall remain entitled to give Commissions from amongst their allocation in terms of section 21.1, 21.2 or 21.3 above to any other former Moderators eligible to be commissioned.

## **21.6 Vacancies between General Assemblies**

21.6.1 In the event of the occurrence of a vacancy in the office of Principal Clerk, Depute Clerk, Law Agent or Procurator between General Assemblies, an interim appointment shall be made until the General Assembly next meets.

21.6.2 In the event of the occurrence of a vacancy in the office of Procurator of the Church between General Assemblies and until an interim appointment may be made, the following provisions shall take effect:

- a) All communications which are appropriate to the duties of the Procurator shall be addressed to the Clerks of the General Assembly.
- b) Where by an Act of Assembly, or by custom, any duty falls to be discharged by the Procurator, the Law Agent shall have power to discharge such duty.

## **22. Relationship with other Church Courts**

22.1 The General Assembly:

- a) shall be populated mainly by commissioners sent by Presbyteries in terms of the provisions set out above;
- b) has the power to instruct Presbyteries and Kirk Sessions through its legislation and deliverances; and
- c) shall be the final court of appeal from decisions of Presbyteries (save as provided above).

22.2 The General Assembly shall exercise powers of oversight of Presbyteries and these may be exercised generally, or as specified in legislation.

22.3 Reciprocally, the General Assembly shall hear from Presbyteries on matters of concern to them. A Presbytery which wishes to raise a matter of concern with the General Assembly may do so in the form of the style Overture to be found in Guidance. An Overture from a Presbytery must be submitted to the Clerks of Assembly in accordance with the procedure and timing set out in the Standing Orders.

22.4 At the General Assembly, an Overture may be presented by a member of the Overturing Presbytery, whether or not he or she is a Commissioner. If an Overture is presented by a member of the Presbytery who is not a Commissioner, he or she shall have the right to speak to and to answer questions upon the Overture, in addition to a Commissioner from that Presbytery, but he or she shall not have the right to speak on any other matter or to vote.

## PART 5 – Definitions and Interpretation

### 23. Definitions

23.1 For the purposes of this Act:

- (1) the “boundaries” of a Presbytery shall mean the territorial extent of a Presbytery in Scotland, in terms of its constituent parishes.
- (2) “Church law” shall mean Acts and Regulations of the General Assembly and instructions of the General Assembly.
- (3) “Deacon” shall mean an individual who has been ordained to ministry as defined in the Deacons Act (Act VIII 2010).
- (4) “Elder” shall mean a person who has been ordained to the office of elder, who is in good standing and who is currently a member of a Kirk Session or a Presbytery in terms of section 13.3.4(b).<sup>41</sup>
- (5) “Financial Board” shall mean the body responsible for managing the finances of a congregation, and may include a Congregational Board, Deacons’ Court, Committee of Management and/or Kirk Session.
- (6) “format” when referring to a meeting, shall mean in-person, online or in hybrid form, hybrid meaning some people present in-person and some simultaneously online.
- (7) “Minister” shall mean a Minister of Word and Sacrament as defined in section 1(2) of the Parish Ministry Act.
- (8) “Mission” shall mean the mission of Jesus Christ as expressed in the Five Marks of Mission, namely:
  - a) To proclaim the Good News of the Kingdom,
  - b) To teach, baptise and nurture new believers,
  - c) To respond to human need by loving service,
  - d) To seek to transform unjust structures of society, to challenge violence of every kind and pursue peace and reconciliation, and
  - e) To strive to safeguard the integrity of creation and sustain and renew the life of the earth.
- (9) “New Charge Core Group” has the meaning given to it in New Charge Development Act (Act XIII 2000).
- (10) “parish” shall mean a geographical area defined by boundaries set by the Presbytery.
- (11) “the relevant Presbytery” shall mean the Presbytery whose authority extends across all parishes sitting within the boundaries of that Presbytery.
- (12) “Standing Committee(s)” shall mean those set out in the Standing Orders of the General Assembly.
- (13) “Standing Orders” shall mean the framework of decision-making adopted by a court.
- (14) “writing” shall mean in hard copy or electronic form.

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<sup>41</sup> *Such a person may in daily practice be described as a ruling elder.*

## **24. Interpretation**

24.1 A Minister shall be eligible for membership of the courts of the Church only as a Minister.

24.2 A Deacon shall be eligible for membership of the courts of the Church only as a Deacon.

24.3 Being present at a meeting means being physically present, being on a telephone line or having an online connection, whether audio only or audio and video.

24.4 In line with the Appeals Act (Act I 2014), the term “appeals” includes Dissent and Complaint.

24.5 A “court” refers to a gathering, being a Kirk Session, Presbytery or General Assembly, where there is authority to make collective decisions.

24.6 “Moderator” includes an Interim Moderator.

24.7 For the purposes of this Act, the term, “civil law” includes state law derived from sources such as the UK Parliament, Scottish Parliament and common law, and includes criminal law.

## **PART 6 - GENERAL**

### **25. Provisions applicable to all courts**

25.1 Minutes of courts shall be signed by the Moderator who occupies the Chair at the time when the Minutes are submitted for approval. They shall also be authenticated by the signature of the Clerk of the court.

25.2 In the case of Committees, the Minutes shall be signed by the Convener and Clerk of the meeting at which they are approved.

25.3 Petitions shall in all cases be presented to the court of first instance-that is to say, to the lowest court which has power to grant the prayer of the Petition.

### **26. Miscellaneous provisions**

26.1 Kirk Sessions, Presbyteries and Standing Committees shall put in place a conflict of interest policy, a bribery and procurement policy and a whistleblowing policy, all in terms of those recommended by the Law Department.

26.2 This Act does not apply to New Charges which shall continue to be subject to the provisions of the New Charge Development Act (Act XIII 2000).

26.3 The provisions of section 5.2.4 as to meetings shall apply, subject to necessary changes, to Financial Boards as they do to Kirk Sessions.

26.4 Lower courts shall not meet at the same time that meetings of higher courts are taking place. A Kirk Session may meet while the General Assembly is in session, provided that none of its members are commissioners. Committees of Kirk Sessions and of Presbyteries may meet while a superior court is in session provided that none of those entitled to attend is a member of, or commissioned to, the superior court.

26.5 This Act shall apply to the Presbytery of International Charges subject to the terms of the International Presbytery Act (Act II 2016) and with such changes to practice as are required by the particular circumstance.

26.6 The Legal Questions Committee shall issue Guidance on the implementation and operation of this Act, which shall be reviewed by it, from time to time.

## **27. Commencement date, repeal and transitional provisions**

27.1 This Act shall come into force on 23 May 2023. The existing Church Courts Act (Act III 2000) shall be repealed as at that date.

27.2 The following Acts of Assembly shall also be repealed as at the date this Act comes into force:

- a) Virtual Attendance at Meetings Act (Act VI 2018).



## **V THE CHURCH OF SCOTLAND GENERAL TRUSTEES (PROPERTIES, FUNDS AND ENDOWMENTS) ACT**

*Edinburgh, 22 May 2024, Session 14*

Whereas:

(a) The Church of Scotland General Trustees (hereafter “the General Trustees”) are a statutory body incorporated by an Act of Parliament, the Church of Scotland (General Trustees) Order Confirmation Act 1921. The Act simplified the holding of titles to land and buildings which, up to that point, had been held by various councils and committees of the Church. A further Act of Parliament, the Church of Scotland (Property & Endowments) Act 1925, widened the scope of work of the General Trustees, in particular the management and administration of land and buildings. The General Trustees are also a registered charity (number SC014574); and

(b) Through a number of Acts and Regulations of the General Assembly the work of the General Trustees now covers the purchase and disposal of heritable property, the application of sale proceeds, technical and financial assistance to congregations, buildings and insurance, care of and work to buildings, property letting and other related areas of work. The purpose of this Act is to consolidate all the items of Assembly legislation, introduced specially by or for the General Trustees, into one Act with areas of work grouped together in Schedules;

Now the General Assembly enact and ordain as follows:

### **1 Definitions and interpretation**

- 1.1 For the purposes of this Act, definitions are listed at the beginning of each Schedule.
- 1.2 Wherever any existing Church legislation is mentioned in this Act and such legislation is hereafter replaced or amended, the section(s) of this Act in question shall thereafter be read as if reference to the replacement and/or amended legislation had been inserted.

### **2 Schedules to this Act**

- 2.1 In relation to Ecclesiastical Buildings (including their care and works to them), the provisions of Schedule 1 shall apply.
- 2.2 In relation to the Central Fabric Fund, Consolidated Fabric Fund, Consolidated Stipend Fund and the application of Fabric and Stipend Endowments, the provisions of Schedule 2 shall apply.
- 2.3 In relation to sales and disposals of heritable property, including the application of a levy on the proceeds of sale, the provisions of Schedule 3 shall apply.
- 2.4 In relation to manses, the provisions of Schedule 4 shall apply.
- 2.5 In relation to glebes, the provisions of Schedule 5 shall apply.

2.6 The Schedules to this Act contain provisions which have been divided generally by subject matter for the purposes of ease of reference. There is inevitably some overlap and that division shall not constrain the appropriate provision(s) applying in any given situation.

### 3 **Effective date and repeals**

3.1 This Act shall come into effect on 23 May 2024 and the following Acts and Regulations of the General Assembly shall be repealed on that date:

- 2007 Act XII: Care of Ecclesiastical Properties
- 1995 Act VII: General Trustees (Delegated Powers)
- 2013 Regs III: Manse Adjudication Committee
- 2008 Regs VIII: Application of a Levy on the Proceeds of Sale
- 2007 Regs VII: Manses
- 2001 Regs IV: Consolidated Stipend Fund
- 2001 Regs III: Further endowment for stipend
- 1998 Regs I: Work at ecclesiastical buildings
- 1996 Regs II Proceeds of sale of heritable properties
- 1995 Regs VII Consolidated Fabric Fund
- 1995 Regs V: Application of fabric and stipend endowments
- 1979 Regs VII Central Fabric Fund
- 1972 Regs I: Glebes

## **Schedule 1 Care of Ecclesiastical Buildings**

### **Definitions**

1. (a) **“Alteration”**: in general any change to an Ecclesiastical Building and includes in particular demolition (including partial demolition), erection, extension, reconstruction, restoration and redecoration except insofar as the same are embraced within the definition of “Repair”.
- (b) **“Ecclesiastical Buildings”**: All properties pertaining to a congregation whether or not in use for the purposes of the congregation and in particular but without prejudice to the foregoing generality all Churches, Church Halls, Manses, houses for assistant or associate ministers, Church Officers’ houses, retirement houses, ancillary buildings or outbuildings and properties which are let. Any object or structure fixed to an ecclesiastical building or forming part of the land and comprised within the curtilage will be treated as part of the building. For the avoidance of doubt, the foregoing pertains to properties owned by both the General Trustees and local trustees.
- (c) **“FAPLT”**: Faith Action Programme Leadership Team or any successor body.
- (d) **“Financial Board”**: The Kirk Session, Congregational Board, Deacons Court, Committee of Management or other congregational authority responsible for finance and for the maintenance of the Ecclesiastical Buildings.



- (e) **“General Trustees’ Financial Limit”**: The financial limit set and reviewed from time to time by the General Assembly on the Report of the General Trustees in terms of section 18(a) of this Schedule 1<sup>42</sup>.
- (f) **“Health and Safety Toolkit” (as amended/successor document)**: The guidance and advice on health and safety for all congregations produced by the General Trustees and available on the Church of Scotland website.
- (g) **“Manse Condition Schedule”**: The document contained in Appendix III of the Joint Report of the General Trustees and the Ministries Council to the General Assembly of 2007 as amended from time to time.
- (h) **“Presbytery Buildings Officer” (or successor role)**: Officer responsible for assessment and monitoring of the condition of Ecclesiastical Buildings within the bounds of the Presbytery and for the provision of professional advice to assist congregations with the maintenance and improvements of Ecclesiastical Buildings.
- (i) **“Professional Reporter”**: An Associate or Fellow of the Royal Incorporation of Architects in Scotland or of the Royal Institution of Chartered Surveyors and who has satisfied the Presbytery that he or she carries appropriate Professional Indemnity Insurance or such other professional person nominated by the Presbytery and approved by the General Trustees, including Presbytery Buildings Officers.
- (j) **“Property Register”**: The register of the Ecclesiastical Buildings in the form specified in sub-sections 3 (b) and (c) of this Schedule 1.
- (k) **“Repair”**: In general the carrying out of operations to make good and includes in particular restoration and redecoration which do not bring about any change in the character or appearance of the property.

### **Duties of Congregations**

2. The Financial Board shall in each congregation set up a Fabric Committee to take care of the Ecclesiastical Buildings. The Fabric Committee shall be empowered to co-opt persons with appropriate skills to enable it to carry out its work.
3. (a) The Fabric Committee shall complete and maintain a Property Register and a Manse Condition Schedule which shall be submitted annually for attestation by the Presbytery. The Manse Condition Schedule shall also be submitted to Presbytery upon a vacancy in the charge; when permission for Repairs or Alterations to the Manse is being sought; or at any other time when requested by the Presbytery or the General Trustees.
- (b) The Property Register shall be in the form approved and issued by the General Trustees and shall contain the following sections in respect of the Ecclesiastical Buildings (except the Manse of the charge):

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<sup>42</sup> As of May 2024, this amount is £50,000.

- (i) A list of the Ecclesiastical Buildings and the title upon which each is held;
  - (ii) The level of insurance cover in respect of each Ecclesiastical Building;
  - (iii) An inventory of furnishings and equipment wherever located;
  - (iv) Details of all repairs and improvements undertaken to the Ecclesiastical Buildings other than those identified by the Professional or Interim Reports;
  - (v) A summary of the urgent and essential items of repair identified by the Professional five-yearly report (whether undertaken by an independent professional or the Presbytery Buildings Officer) or Interim Reports.
- (c) The Manse Condition Schedule shall be in the form approved and issued by the General Trustees and FAPLT and shall contain the following information in respect of the Manse(s) of the charge:
- (i) Basic information as to address, building type, Listing, insurance cover and service contracts;
  - (ii) A description of the internal condition by reference to each room, its current condition, when it was last decorated and/or up-graded and at what cost;
  - (iii) A description of the external condition including the garden; and clarification of the relative responsibilities of the Financial Board and Minister with regard to garden upkeep;
  - (iv) Details of items such as floor coverings, curtains, and white goods which are provided and maintained by the Financial Board.
4. The Fabric Committee shall inspect all Ecclesiastical Buildings including the Manse by the end of May each year. All matters which are found to require attention at the annual inspection, and at any other time, shall be recorded in the Property Register or the Manse Condition Schedule along with a note of the action taken thereon.
5. (a) The Property Register and the Manse Condition Schedule shall be submitted annually to the Financial Board when it considers its budget for the following year so that reasonable provision may be made for the repairs and renovations required. At the same time, the Financial Board shall consider the levels of insurance cover in respect of all Ecclesiastical Buildings including the Manse to ensure that they are realistic and to make allowance for increased premiums in the following year.
- (b) Congregations are required to insure all their Ecclesiastical Buildings through the scheme offered by Church of Scotland Insurance Services Limited (COSIS) or any subsequent arrangements made by the General Trustees to provide a consistent level of protection across all Church property. They are also required to take up covers for public liability, employer's liability, breach of duty, trustee indemnity and contents cover as provided by the scheme or under any subsequent arrangements.
- (c) The General Trustees will arrange for Presbyteries or congregations to undertake regular revaluations of Ecclesiastical Buildings for insurance purposes in accordance with the requirements of the insurer.

- (d) Nothing in this section shall preclude Presbyteries from instructing valuations for insurance purposes on the Ecclesiastical Buildings of congregations within their bounds.
- 6. Where a Manse serves as the Manse of a linked charge, the Fabric Committee which prepared the Manse Condition Schedule shall give a copy of the Manse Condition Schedule to the Fabric Committee of the other congregation or congregations in the linkage.
- 7. All congregations shall appoint a health and safety administrator and the Financial Board shall consider compliance, risk and safety aspects and issues when considering care of Ecclesiastical Buildings. The Fabric Committee shall ensure that it is in possession of the most up to date version of the Health & Safety Toolkit.

### **Duties of Presbyteries**

- 8. Each Presbytery shall have a Fabric Committee (the “Presbytery Committee”) to which it shall appoint persons with technical knowledge and experience and appropriate skills and shall empower it to co-opt persons with such knowledge, experience and skills or to obtain such assistance as it may deem necessary.
- 9. The Presbytery Committee shall consider the Property Registers and Manse Condition Schedules of all congregations within the bounds on an annual basis and shall report thereon to the Presbytery. The Presbytery shall have power to instruct a congregation to undertake such repairs as it may deem necessary and to implement the recommendations of insurance valuations.
- 10. (a) The Presbytery Committee shall instruct five yearly comprehensive inspections and reports to be undertaken on all Ecclesiastical Buildings within the bounds, such inspections to be carried out by the Presbytery Buildings Officer where one has been appointed whom failing by a Professional Reporter (“the Five-yearly Report”).

The Presbytery shall be the principal recipient of the Five-yearly Report with copies made available to the Financial Board and the General Trustees.

- (b) Reasonable notice of intended five yearly inspections shall be given to the Clerk of the Financial Board or Fabric Convener and to the Minister of the charge and it shall be their duty to afford all reasonable facilities for the carrying out of inspections.
- (c) All Five-yearly Reports shall identify i) as “Urgent” all works required for the safety of the public or persons using the buildings and works should be completed within six months of the date of publication of the Five-yearly Report; ii) as “Essential” all works required to keep the buildings wind, water-tight and fit for use; and iii) as “Desirable” all other works including works of modernisation and improvement.
- (d) Presbytery Buildings Officers and Professional Reporters shall also have regard to the terms of the previous Five-yearly Report and shall comment on whether

the Financial Board has dealt with the Urgent, Essential and Desirable works identified therein.

- (e) The cost of all Five-yearly Reports shall be met by the Presbytery where such Reports are undertaken other than by the Presbytery Buildings Officer.
11. The Presbytery Committee shall consider the Five-yearly Reports with particular reference to the items identified as Urgent and Essential in the immediately preceding Report. It shall consult with the Fabric Committee of the congregation concerned before presenting the Five-yearly Report to the Presbytery with instructions as to the timescales, prior to the next Report, within which the said Financial Board shall complete the works classified as "Urgent" and those classified as "Essential". The Presbytery may instruct an energy survey to be carried out by the General Trustees' Heating Consultant. The Financial Board shall advise the Presbytery when these works have been completed and, if required by the Presbytery, when an energy survey has been undertaken. The Presbytery Clerk shall inform the Presbytery if such advice from the Financial Board is not to hand within the stated timescale and the Presbytery shall take such action as it deems appropriate.
12. Each Presbytery shall annually prepare and transmit to the General Trustees not later than 31 December, a report containing such information as may be prescribed by the General Trustees, on its diligence in carrying out the provisions of this Schedule 1 within its bounds. The General Trustees shall report thereon to the General Assembly.

#### **General Trustees instructing works**

13. Where a Financial Board has failed to undertake work within a reasonable time as highlighted in an annual inspection or a Five yearly Report, the General Trustees, in consultation with Presbytery, may arrange for such works to be undertaken and to apply sums which are held for the benefit of the congregation in the Consolidated Fabric Fund towards the cost of such works.

#### **Notification of injuries and damage**

14. The Financial Board shall notify the General Trustees and Presbytery immediately of any injuries to any persons sustained within any of the Ecclesiastical Buildings of the congregation, and of any material damage (including fire damage) to any such buildings.

#### **Works to Ecclesiastical Buildings**

15. Sections 16 to 18 of this Schedule 1 apply in respect of Ecclesiastical Buildings held by or for the benefit of any court or congregation of the Church of Scotland, within the Presbyteries in Scotland and the Presbytery of England and the Channel Islands.

#### **Presbytery Approvals**

16. (a) Subject to the provisions in sub-sections 17(a) and 18(c) of this Schedule 1, a Financial Board shall not without first obtaining the approval of Presbytery of the bounds instruct the carrying out of Repairs or Alterations at an Ecclesiastical Building.

- (b) Each Presbytery is authorised and empowered from time to time to make provision by way of resolution that the requirement for its approval may be dispensed with in such circumstances and on such conditions as it may deem appropriate. It will have no power to dispense with the requirement for approval of work at an Ecclesiastical Building where:
- (i) The cost exceeds the General Trustees' Financial Limit.
  - (ii) The cost plus the cost of work at the same building authorised by Presbytery during the previous three years, exceeds the General Trustees' Financial Limit.
  - (iii) The cost plus the cost of other work likely to be required at the same building over the following three years, is likely to exceed the General Trustees' Financial Limit.
  - (iv) The work is otherwise work which requires the approval of the General Trustees (including the invoking of the General Trustees' Financial Limit).

Work meeting criteria (i), (ii) or (iii) is hereinafter referred to as work which invokes the General Trustees' Financial Limit.

In the case of work meeting criteria (iv) (but not work meeting criteria (i), (ii) or (iii)), Presbytery may resolve that approval is deemed to be granted if authorised by the Presbytery Property Convener or some other person or body nominated by Presbytery.

Any resolution by Presbytery hereunder will have no effect until it has, in writing, been intimated to and acknowledged by the General Trustees

- (c) When Presbytery is dealing with applications for approval of work at a building, Presbytery shall consider all relevant factors including the current approved five-year Presbytery Mission Plan, the number of buildings for which the congregation is responsible, whether the particular building is likely to be required by the congregation in the medium to long term, the need for the work in the interests of safety or to preserve the value of the building as a marketable asset and the impact of the proposed expenditure on the congregation's other commitments such as contributions towards their Giving to Grow allocations. In addition, Presbytery shall consider whether the building in question broadly conforms to the standards and requirements as set out in the Presbytery Planning Land and Buildings Toolkit and, in the case of manses, the relevant statutory minimum housing condition standard.
- (d) If a Presbytery withholds approval for work, the Financial Board of the congregation or congregations concerned will have a right of appeal against the Presbytery's decision to the Appeals Committee of the Commission of Assembly subject to compliance with the following provisions:-
- (i) It shall be the duty of Presbytery in such circumstances to advise the Financial Board or Boards forthwith in writing both of their right of appeal and the time limit which applies.

- (ii) A Financial Board wishing to lodge an appeal must intimate the same in writing in terms of the Appeals Act (Act I 2014) and thereafter the provisions of that Act shall apply.
- (e) When approval has been granted by or on behalf of Presbytery for work which also requires the approval of the General Trustees, the application shall be transmitted immediately to the General Trustees.

### **General Trustees' Approval**

17. (a) Subject to the provisions of sub-sections 17(b) and 18(d) in this Schedule 1, a Financial Board shall not without first obtaining the approval of the General Trustees instruct the carrying out of Alterations at an Ecclesiastical Building or of work at an Ecclesiastical Building which invokes the General Trustees' Financial Limit.
- (b) The General Trustees are authorised and empowered from time to time to make provision by way of resolution that the requirement for their approval may be dispensed with in such circumstances and on such conditions as they may deem appropriate.
- (c) The General Trustees shall not give unconditional approval for the carrying out of work at a church, church hall or ancillary building where the cost of work invokes the General Trustees' Financial Limit without the opinion of FAPLT having first been obtained.
- (d) On making a decision under this Schedule 1 to approve or not to approve of work, the General Trustees will be bound to intimate the same forthwith to:
- (i) The Presbytery concerned,
  - (ii) The Financial Board or Boards of the congregation or congregations directly affected, and
  - (iii) In cases where the cost of the work invokes the General Trustees' Financial Limit and FAPLT has not concurred, that body.
- (e) If a decision not to approve work is based on the categorisation of an Ecclesiastical Building in the Presbytery Mission Plan, the General Trustees will be bound to incorporate a statement to that effect in the intimation.
- (f) If the General Trustees withhold approval for work, the Financial Board of the congregation or congregations concerned will have a right of appeal against the General Trustees' decision to the Appeals Committee of the Commission of Assembly subject to compliance with the following provisions:-
- (i) It shall be the duty of Presbytery in such circumstances to advise the Financial Board or Boards forthwith in writing both of their right of appeal and the time limit which applies.
  - (ii) A Financial Board wishing to lodge an appeal must intimate the same in writing in terms of the Appeals Act (Act I 2014) and thereafter the provisions of that Act shall apply.

## **General**

18. (a) The General Assembly on the Report of the General Trustees shall determine and thereafter review at intervals of no longer than 5 years the amount of the General Trustees' Financial Limit.
- (b) The provisions in this Schedule 1 apply irrespective of the body in which an Ecclesiastical Building is vested or the manner in which the titles are held and, in particular, will cover subjects held on lease, and are without prejudice to the need to obtain any additional consents or approvals which may be necessary for the carrying out of work and resulting from any requirement in the titles, the constitution of the congregation or otherwise.
- (c) Where a Repair or Alteration to an Ecclesiastical Building is urgently necessary in the interests of safety or for the preservation of the building the Financial Board may proceed to have such work undertaken without obtaining such approvals as would otherwise be required under this Schedule 1 but shall give immediate written notice to Presbytery and the General Trustees of the need for the works and full details of what has been instructed.
- (d) Any approval granted by Presbytery and/or the General Trustees under the provisions of this Schedule 1 will, unless acted upon, lapse after a period of three years from the date upon which it was granted.
- (e) For works which are more than basic repair or refurbishment, the Financial Board shall instruct appropriate qualified building professionals, including an architect/surveyor and, if necessary, a Quantity Surveyor and it will be the responsibility of the Financial Board to ensure that all contractors and tradesmen engaged in the work are appropriately qualified with accreditation from their requisite trade body.
- (f) The Presbytery Buildings Officer shall assess matters such as contractor's insurance, risk assessment and overall specification of works.
- (g) This Schedule 1 will not apply to (a) congregations and Presbyteries out with the United Kingdom but these Presbyteries shall take such steps as they deem wise in their own circumstances for the inspection of all Ecclesiastical Buildings within their bounds and (b) congregations of New Charge Developments until they attain full status.

## **Schedule 2**

**Central Fabric Fund  
Consolidated Fabric Fund  
Consolidated Stipend Fund  
Application of Fabric and Stipend endowments**

## **Definitions**

1. (a) **"FAPLT"**: Faith Action Programme Leadership Team or any successor body.

- (b) **“Financial Board”**: The Kirk Session, Congregational Board, Deacons Court, Committee of Management or other congregational authority responsible for finance and for the maintenance of the Ecclesiastical Buildings.
- (c) **“Presbytery Buildings Officer” (or successor role)**: Officer responsible for assessment and monitoring of the condition of Ecclesiastical Buildings within the bounds of the Presbytery and for the provision of professional advice to assist congregations with the maintenance and improvements of Ecclesiastical Buildings.

## **Central Fabric Fund**

### **General**

2. The Central Fabric Fund shall be used by the General Trustees:
  - (a) in making grants and loans to congregations for costs relating to the purchasing, building, repairing and improving of Churches, Church Halls and Manses;
  - (b) at the discretion of the General Trustees, meeting the cost, wholly or partially, of employing Presbytery Buildings Officers; and
  - (c) in certain other special cases as determined by the General Trustees.
3. In addition to the purposes set out in section 2 of this Schedule 2, the General Trustees may hold a restricted sub-fund for each Presbytery within the Central Fabric Fund, to be administered by the General Trustees and applied as provided for in section 47 of this Schedule 2.

### **Applications**

4. (a) In addition to the prescribed application form, there shall be submitted to the Presbytery of the bounds a schedule containing particulars of the proposals, together with plans (if appropriate), estimates of probable costs and a copy of the most recent abstract of congregational accounts. When dealing with the application, Presbytery shall consider all relevant factors including the Presbytery Mission Plan, the number of buildings for which the congregation is responsible, whether the particular building is likely to be required by the congregation in the medium to long term, the need for the work in the interests of safety or to preserve the value of the building as a marketable asset and the impact of the proposed expenditure on the congregation's other commitments such as contributions towards Giving to Grow. If, after considering these matters, the Presbytery approves the application, it shall transmit the schedule with its deliverance thereon and the supporting papers to the General Trustees. No application which has not been approved by the Presbytery shall be considered by the General Trustees.
- (b) In all cases where financial assistance by way of grant or loan is being requested the application must be considered by the General Trustees prior to the work being commenced.
- (c) In urgent cases, where immediate repairs are necessary, the Convener or Vice-Convener of the Fabric Committee of the General Trustees may give leave for



the work to proceed without prejudice to subsequent consideration of the application by the General Trustees.

- (d) Nothing in these or other provisions of this Schedule 2 shall infer any pecuniary liability on the General Trustees to any person undertaking work in connection with any Church, Manse or Hall.
- (e) The General Trustees reserve the right to decline any application where the foregoing provisions have not been observed.

### **Grants**

5. (a) Grants awarded are normally subject to the condition that the title to the property concerned is vested in the General Trustees or alternatively is vested in a body of local trustees under the express stipulation that the property is subject to the regulation and direction of the General Assembly as regards the management and disposal of the property, but the General Trustees are empowered to make grants in other cases where they deem the circumstances to be appropriate.
- (b) In considering an application the General Trustees shall give attention to the following points: the Presbytery's opinion of the proposals, the need and urgency of the work, the financial resources and obligations of the congregation, the efforts made locally to raise additional money for the work and whether the congregation has any outstanding unjustified shortfalls in past givings to the Ministry and Mission or in Giving to Grow contributions. The General Trustees are empowered to call for the production of the congregation's Property Register.
- (c) Grants will be payable on completion of the work and on presentation of appropriate contractor/professional adviser paperwork or invoice, but a portion of the grant can, in circumstances such as contractors requiring deposits, be made available in advance of the work commencing. The General Trustees shall be at liberty to pay grants in instalments, should circumstances require, of up to two thirds of the amount thereof while the work is proceeding, the last instalment being payable on completion of the scheme if the conditions laid down by the General Trustees have been fulfilled.
- (d) Grants are awarded on condition that, if the property in respect of which they are awarded is subsequently sold, the General Trustees have the right of reclaiming the amount of the grant from the proceeds of the sale.
- (e) The offer of a grant will lapse unless claimed within two years of the date on which it is awarded.
- (f) A congregation will normally be required to utilise up to 75% of centrally held funds (including those in the Consolidated Fabric Fund and unrestricted reserves in the Investors Trust) towards the cost of the project/works where such costs are in excess of a congregation's available fabric funds.

### **Loans**

6. (a) Loans may be made of such amount and on such terms as to interest (including non-liability to interest), repayment etc as the General Trustees, in the particular case, will determine. If interest is charged, the rate in force at the date on which the loan is made available shall be the maximum rate applicable to that loan until it is repaid, unless repayments are in arrears, in which case the General Trustees shall be entitled to charge interest at a rate of three per cent per annum above the Base Lending Rate from time to time of the Royal Bank of Scotland.
- (b) Loans will be repayable with interest, if required, in sums and at dates fixed by the General Trustees when the loans are granted. Congregations are encouraged to make complete repayment of capital and interest in shorter time than that determined.
- (c) The offer of a loan will lapse unless claimed within eighteen months of the date on which it is offered.
- (d) Loans shall be paid only on an Undertaking to repay signed on behalf of the Financial Board of the congregation and supported by an extract minute of the Financial Board agreeing the terms proposed by the General Trustees.
- (e) Applications for loans in excess of £50,000 will require the congregation to submit a detailed business plan and cashflow analysis.

#### **Use of monies**

7. The General Trustees are authorised to use monies from the Central Fabric Fund to meet any liabilities which may fall on them in respect of buildings in circumstances where, in the judgement of the General Trustees, they cannot appropriately recover the same from a congregation.

#### **Consolidated Fabric Fund**

##### **General**

8. (a) The Consolidated Fabric Fund was created in 1995 in terms of the Consolidated Fabric Fund Regulations (as amended). It is held by the General Trustees for the benefit of individual congregations and consists of:
    - (i) Capital Accounts holding funds derived from the sale of heritable properties where title is held in the name of the General Trustees or where title is held in the name of local trustees but is subject to the direction and regulation of the General Assembly as regards to management and disposal; and
    - (ii) Revenue Accounts holding rental receipts from heritable properties and investment income.
  - (b) The Consolidated Fabric Fund also holds all congregational heritable properties vested in the General Trustees.
9. The Consolidated Fabric Fund shall be administered by the General Trustees who shall receive donations and bequests directed to it. The net sale proceeds of properties referred to in section 8(a)(i) of this Schedule 2 shall be transferred to the Consolidated Fabric Fund as assets thereof and in terms of this Schedule 2 and shall

form additions to existing accounts or the initial amounts to be credited to new accounts as appropriate.

10. The General Trustees as administrators of the Consolidated Fabric Fund shall be bound to meet as and when required the amounts standing at credit from time to time of the accounts.

11. **Management of Funds**

The funds and assets of the Consolidated Fabric Fund shall be managed by the General Trustees in the following ways:

- (i) for meeting the expenses of administration of the Consolidated Fabric Fund, declaring that the General Trustees may, for this purpose, charge an appropriate fee at a rate to be determined by them;
- (ii) for meeting their liabilities in connection with the accounts; and
- (iii) in respect of any balance of funds, not required for the preceding purposes, for investing in any investment permitted to them in terms of the Church of Scotland (General Trustees) Order Confirmation Act 1921 (as amended) and the Church of Scotland (Properties and Investments) Order Confirmation Act 1994.

12. **Introduction of New Capital**

New capital arises from the sale of heritable properties or from a transfer from the Consolidated Stipend Fund if so permitted under section 36 (ii) of this Schedule 2.

It may be introduced at any time and placed on deposit. It may be introduced to share-based Capital Accounts at the beginning of each calendar month. The applicable share price for new shares in such Capital Accounts is calculated by dividing the total value of that Capital Account by the number of shares already in issue at that date. The number of new shares issued in that Capital Account is calculated by dividing the amount being introduced to it by the share price.

13. **Dividend and Interest Administration**

The General Trustees shall declare a dividend in respect of shares held in Capital Accounts that is normally credited to Revenue Accounts half-yearly. Interest accruing from both Capital and Revenue Accounts is normally credited to Revenue Accounts quarterly.

14. **Withdrawal of Capital**

Capital may be withdrawn from Capital Accounts subject to sections 16 to 18 below or in the event of a transfer to the Consolidated Stipend Fund being permitted under section 36 (iii) of this Schedule 2.

Capital held on deposit may be withdrawn at any time. Capital held in share-based Capital Accounts may be withdrawn at the beginning of each calendar month by the encashment of shares. The applicable share price for share encashment in such Capital Accounts is calculated by dividing the total value of that Capital Account by the number of shares already in issue at that date. The value of the encashed shares is that share price multiplied by the number of shares being encashed.

15. **Withdrawals from Revenue Accounts**

Withdrawals may be made from Revenue Accounts at any time subject to sections 16 to 18 below or in the event of a transfer to the Consolidated Stipend Fund being permitted under section 36 (iii) of this Schedule 2.

16. **Application of Funds**

The amount held in both the Capital Accounts and Revenue Accounts in the Consolidated Fabric Fund shall be held and applied by the General Trustees for fabric and fabric-related purposes and for limited non-fabric purposes as laid down in Guidance approved by the General Assembly in 1995, as such Guidance may be adjusted and approved by the General Assembly from time to time. The Guidance applies differently to Capital Accounts and Revenue Accounts.

17. **New Charges**

Any holding in the Consolidated Fabric Fund for the benefit of a congregation which adopts the status of and is constituted as a New Charge shall be transferred by the General Trustees to FAPLT to be held and applied by it for fabric purposes in connection with that congregation.

18. **Restriction on use of Funds**

Funds can only be applied to buildings where title is held in the name of the General Trustees or where title is held in the name of local trustees but as regards management and disposal is subject to the direction and regulation of the General Assembly.

**Consolidated Stipend Fund**

**General**

19. The Consolidated Stipend Fund (hereinafter referred to as “the Stipend Fund”) was created on 1 January 1982 as a depository for the net sale proceeds of glebes.

20. The Stipend Fund shall be administered by the General Trustees and may be invested through the medium of the Church of Scotland Investors Trust or any other body approved by the General Trustees. Any investment policy changes will be put into effect by the General Trustees only after consultation with FAPLT.

21. The General Trustees shall be entitled to an administration charge in respect of their intromissions with the Fund of such amount as may be agreed from time to time by FAPLT and the General Trustees or, failing agreement, determined by the Assembly Trustees.

22. The shares currently held in the Stipend Fund for the benefit of congregations will, subject to the provisions of this Schedule 2, continue to be held for the benefit of those congregations.

**Distributions from Fund**

23. Each year, the General Trustees will, after consultation with FAPLT, determine the dividend which it is proposed to pay on each share in the Stipend Fund in the following year. It is stipulated for the avoidance of doubt that the General Trustees are empowered to pay a proportion of such dividend out of the capital of the Stipend Fund.

24. The General Trustees will account to FAPLT twice a year in June and December for the amount to be paid by way of dividend on shares.
25. **Introduction of New Capital**  
New capital may be introduced to the Stipend Fund at the beginning of each calendar month or at such other times as may be determined by the General Trustees and the number of shares to be attributed to such new capital will be ascertained by dividing the total value of the capital of the Stipend Fund before the introduction of the new capital by the number of shares in issue at that date, the share value thus produced being divided into the new capital to determine the number of new shares.
26. **Withdrawal of Capital**  
Normally capital may only be withdrawn in the event of a transfer to the Consolidated Fabric Fund being permitted under section 36 (ii) of this Schedule 2.  
Such capital may be withdrawn from the Stipend Fund at the beginning of each calendar month or at such other times as may be determined by the General Trustees by the encashment of shares; the value of the shares to be withdrawn will be ascertained by dividing the total value of the capital of the Stipend Fund before the withdrawal of the capital by the number of shares in issue at that date, the share value thus produced being multiplied by the number of shares being withdrawn, in order to determine their aggregate value.

#### **Glebe Finance**

27. **Treatment of Glebe Sales**  
The net sale proceeds of glebe land will constitute new capital for the Stipend Fund and these will be introduced as provided under section 25 of this Schedule 2.
28. **Glebe Rents**  
Rents from glebes vested in or administered by the General Trustees (hereinafter referred to as "the Rents") will be collected by the General Trustees but will not form part of the income of the Stipend Fund.
29. The General Trustees will be entitled to allocate support costs, representing collection charges on the Rents and management of glebe land, against the Glebe Fund of such amount as may be agreed from time to time by FAPLT and the General Trustees or, failing agreement, as may be determined by the Assembly Trustees.
30. The General Trustees will account to FAPLT twice a year in June and December for the Rents less the support costs.
31. **Application of Income**  
The dividend on shares in the Stipend Fund and the Rents (net of support costs) will be applied by FAPLT towards the cost of providing for the benefiting congregation a minister and other members of the ministry team who exercise paid leadership in the worship and pastoral life of the congregation. For the avoidance of doubt, this shall not include administrative posts such as Church secretaries or Church officers, or organists.
32. **Powers of the General Trustees**

For removal of any doubt it is declared that the provisions of this Schedule 2 are without prejudice to any powers delegated elsewhere to FAPLT and to the General Trustees.

## **Application of Fabric and Stipend Endowments**

### **General**

33. In this part:  
“The **stipend**” of a congregation or of a charge means the cost of providing a minister and other members of the ministry team for that congregation or charge.
34. The benefiting congregation in respect of a stipend or fabric endowment will be determined by the General Trustees and will normally be the congregation (a) within the parish of which the subject producing the endowment is or was situated or (b) with which the subject is or was connected.
35. Where any decision to allocate or reallocate or not to allocate or reallocate any stipend or fabric monies (including glebe rents) has been made by FAPLT or by the General Trustees or any determination regarding the benefiting congregation or charge in respect of a stipend or fabric endowment has been made by the General Trustees all in terms of this Schedule 2, any Presbytery concerned or any Financial Board having title or interest may (except where the consent of the General Assembly has been given to the decision or determination) ask the Legal Questions Committee to review such decision or determination. The decision of the Legal Questions Committee shall be final.
36. In implementing the powers conferred upon them under this Schedule 2, the General Trustees shall have regard to the following principles:
  - (i) It is the law and practice of the Church that the proceeds of sales of glebes are treated as being available for stipend endowment and that the proceeds of sales of ecclesiastical buildings and associated land are treated as being available for fabric endowment. That practice will generally continue but will be subject to the principles laid down in sub-sections (ii) and (iii) of this section 36.
  - (ii) If the stipend endowment held for a charge is in excess of its reasonable requirements, the fabric requirements of the congregation or congregations of the charge will be examined and if any congregation is considered to be inadequately endowed in that respect, an appropriate allocation will be made from the stipend endowment of that congregation to its fabric endowment. A stipend endowment may be deemed surplus if it exceeds an amount, after reallocation, which generates endowment income equivalent to one half of a Minister’s stipend at point five of the stipend scale. The General Trustees, after consultation with FAPLT, will seek the view of Presbytery prior to agreeing to any reallocation following a request by a congregation.
  - (iii) If the fabric endowment held for a congregation is in excess of its reasonable requirements, the stipend requirements of the charge related to that congregation will be examined and if the stipend of the charge is considered to be inadequately endowed an appropriate allocation will be made from the fabric

endowment of that congregation to its stipend endowment. The reallocation will constitute new capital for the Stipend Fund as provided at section 25 above. Any surplus remaining will be, subject to the meeting of any shortfalls in contributions to central funds in the circumstances determined by the Assembly of 1996, allocated to the Central Fabric Fund.

### **Stipend Endowments**

37. At each vacancy in a charge, if the value of shares in the Stipend Fund held for the congregation or congregations of the charge exceeds an amount to be determined from time to time by the General Trustees after consultation with FAPLT, Presbytery shall give its views to the General Trustees on a possible reallocation in terms of section 36(ii) of this Schedule 2.
38. When new capital falls to be included in the Stipend Fund, Presbytery shall give its views to the General Trustees on a possible reallocation if (i) the following circumstances exist namely (a) the value of the new capital exceeds such amount as may be determined from time to time by the General Trustees after consultation with FAPLT and (b) the addition of the new capital to the existing stipend endowment held for the charge would result in the value of the endowment held for the charge exceeding the amount determined in relation to section 37 in this Schedule 2 or (ii) the General Trustees or FAPLT so require.
39. On receiving the views of Presbytery on a possible reallocation or if no views are expressed within a period of three months from the reference to Presbytery or such longer period as may be allowed by the General Trustees in a particular case, the General Trustees shall make a reallocation or determine not to make any reallocation but shall not make any reallocation to the Consolidated Fabric Fund without the specific concurrence of FAPLT.
40. Glebe rents shall be applied towards the stipend of the congregation with which the glebe is connected but the General Trustees will have power, in what they deem to be exceptional circumstances, to allocate excess monies either to the revenue account in the Consolidated Fabric Fund held for the benefit of the congregation or to the National Stipend Fund subject in the former case to the concurrence of FAPLT.
41. On the dissolution of a congregation, the endowments for stipend held for the benefit of that congregation will, unless there is agreement by both the General Trustees and FAPLT to the contrary or either body refers the matter to the General Assembly, be allocated to the National Stipend Fund.

### **Fabric Endowments**

42. (a) This section refers to funds held in the Consolidated Fabric Fund for the benefit of individual congregations.
- (b) Such funds will be held and applied by the General Trustees in accordance with the Guidance for the use of monies in the Consolidated Fabric Fund as set out by the General Trustees from time to time and approved by the General Assembly and can only be applied to buildings where title is held in the name of the General Trustees or where title is vested locally but as regards the

management and disposal of the property is subject to the direction and regulation of the General Assembly.

43. Details of all cases in which the value of the assets in the Consolidated Fabric Fund held for the benefit of a congregation exceeds an amount to be determined by the General Trustees from time to time will be referred to Presbytery which shall give its views to the General Trustees on a possible reallocation in terms of the Guidance set from time to time by the General Trustees and approved by the General Assembly.
44. When new capital becomes available Presbytery shall give its views to the General Trustees on a possible reallocation if (i) the following circumstances exist namely (a) the value of the new capital exceeds an amount as determined in section 36 of this Schedule 2 and (b) the addition of the new capital to the existing fabric endowment held for the congregation would result in the value of the endowment held for the congregation exceeding an amount as determined in section 36 of this Schedule 2.
45. The General Trustees may, in each case in which they consider the circumstances are appropriate, invite the Presbytery to give its views on a possible reallocation and any Presbytery will have the right to give its views on a possible reallocation in any case, whether or not it has been asked to do so by the General Trustees.
46. On receiving the views of Presbytery on a possible reallocation or if no views are expressed within a period of three months from the reference to Presbytery or such longer period as may be allowed by the General Trustees in a particular case, the General Trustees shall make a reallocation or determine not to make any reallocation.
47. On the dissolution of a congregation, 50% of the net proceeds of sale of redundant properties, either vested in the General Trustees or vested in local trustees (whether or not title is held subject to the direction and regulation of the General Assembly), will be allocated to the Central Fabric Fund, subject to the meeting of any shortfalls in contributions to central funds in the circumstances determined by the Assembly of 1996, unless there is agreement by both the General Trustees and FAPLT to the contrary. The remaining 50% of the net free proceeds will be credited to the relevant Presbytery sub-fund within the Central Fabric Fund, to be administered by the General Trustees and the holdings therein to be applied, at the discretion of the Presbytery, to a fabric project within the bounds of the Presbytery.
48. On the dissolution of a congregation with any buildings defined as Historic Properties in terms of Act VIII 2021, the Presbytery Mission Plan Act, the proceeds of sale of all buildings shall be credited to the Historic Property Fund, a designated fund administered by the General Trustees.

### Schedule 3 – Disposal of Land and Property

#### Definitions

1. (a) **“Central Fabric Fund”**: the Fund originally formed in terms of Regulations VII 1979 and now governed by the terms of Schedule 2 of this Act.



- (b) **“Consolidated Fabric Fund”**: the Fund originally formed in terms of Regulations VII 1995 and now governed by the terms of Schedule 2 of this Act.
- (c) **“Ecclesiastical Buildings”**: all properties pertaining to a congregation whether or not in use for the purposes of the congregation and in particular but without prejudice to the foregoing generality all churches, church halls, manses, houses for assistant or associate ministers, Church Officers’ houses, retirement houses, ancillary buildings or outbuildings and properties which are let. Any object or structure fixed to an ecclesiastical building or forming part of the land and comprised within the curtilage will be treated as part of the building.
- (d) **“Fabric project”**: works of repair, improvement and alteration at churches, halls and manses and replacement of and/or purchase of (sites for) churches, halls and manses.
- (e) **“Financial Board”**: the Kirk Session, Congregational Board, Deacons’ Court, Committee of Management or other congregational authority responsible for finance.
- (f) **“Presbytery”**: the Presbytery of the bounds unless the context otherwise requires.

### **Ecclesiastical Approvals**

2. The General Assembly, with reference to the provisions of the Church of Scotland (Property and Endowments) Acts and Orders 1925 to 1995 and of the title deeds of various properties, delegate to the General Trustees all the powers conferred upon or reserved to the General Assembly by:
  - (One)
    - (a) section 34 (1) (g) (as substituted) and section 36 (as amended) of the Church of Scotland (Property and Endowments) Act 1925;
    - (b) sections 1, 3, 4, 5, 6 and 8 of the Church of Scotland (Property and Endowments) Amendment Act 1933 (all as amended); and
    - (c) section 3 of the Church of Scotland (Property and Endowments) Amendment Order 1978;

and all as amended by the Church of Scotland (Property and Endowments) Amendment Order 1995; and
  - (Two) the terms of the titles of heritable properties where the trustees holding the same are, due to such terms, subject in any way to the regulation and direction of the General Assembly as regards the management and disposal of the properties or the proceeds of sale thereof, as such terms are amended by the Church of Scotland (Property and Endowments) Amendment Order 1995 (declaring that such properties will include properties of congregations of the former Free Church of Scotland and congregations of the former United Free Church of Scotland where the title was taken in terms of the “Sections for Congregational Titles” approved of for use in the case of properties acquired after 30th October 1900);

so that the General Trustees shall be the sole determining body in relation to the powers hereby delegated, but subject to the remaining terms of this Act.

3. (i) Without prejudice to sections 4, 5 and 6 of this Schedule 3 and to the right of Presbytery to effect Adjustment in terms of the Presbytery Mission Plan Act (Act VIII 2021), all applications to the General Trustees for a determination under the powers hereby delegated for authority to sell or otherwise dispose of any Ecclesiastical Building shall proceed from the Financial Board (and the Kirk Session, if different) with the approval of the Presbytery of the bounds. Such applications shall state the reasons for the application and the purposes to which it is desired that any proceeds of sale be applied.
- (ii) The General Trustees shall, on making a determination in terms of section 3 (i), intimate such determination forthwith by notice in writing to the Presbytery or Presbyteries concerned and also to the Financial Board or Boards of the congregation or congregations directly affected. On receipt by the Clerk of the Presbytery of the notice of the determination of the General Trustees, he or she shall intimate the determination to the next ordinary meeting of Presbytery. Any determination authorising the sale or disposal of property will be final and not subject to appeal.
4. With reference to section 3 of this Schedule 3, in any case where, in the opinion of the General Trustees special circumstances obtain, including, without prejudice to that generality, the situation where the property or endowment under consideration is held for other than congregational purposes or a congregation has dissolved, an application may proceed otherwise than is provided in the said section 3; and the whole provisions of the said section 3, including those relative to determination, will have effect with regard to such application and determination, all with such modifications as may be appropriate in the circumstances.
5. With regard to glebe subjects vested in the General Trustees the powers hereby delegated will include power to the General Trustees to determine at any time that any such glebe or part thereof shall be sold or otherwise disposed of, subject only to their consulting with the minister of the Parish and the Presbytery of the bounds, the proceeds of sale or disposal being applied according to the provisions of Schedule 2 of this Act.
6. In the event of the General Trustees being of the opinion that any individual matter hereunder should be determined by the General Assembly or their Commission, they are empowered of their own volition to bring such matter before the Assembly or their Commission for determination.
7. Where any funds which are or may be subject to the terms of this Act are to be applied in the purchase of any heritable property, the Solicitor of the Church is directed to see the transaction carried into effect and also to see that the title deeds of the new property are either (a) taken in such terms that the trustees holding the property will, as regards the management and also as regards the disposal of the same, be subject to the regulation and direction of the General Assembly and that such trustees will (subject to such regulation and direction) have power to sell or otherwise dispose of

the whole or any part of such new property and to burden the same with debt or (b) vested in the General Trustees.

8. Where any funds which are or may be subject to the terms of this Act are applied for fabric purposes, the capital of such funds shall be expended only on properties where the trustees holding the same are, in terms of the titles thereof, subject to the regulation and direction of the General Assembly as regards the management and disposal thereof or alternatively are the General Trustees.
9. Any determination made under the powers hereby delegated and authorising the sale or disposal of property will (unless acted upon) lapse after a period of five years from the date thereof.

#### **Application of a Levy on Sale Proceeds**

10. There shall be a levy (hereinafter referred to as “the levy”) applied to the net proceeds arising from the sale of all property in every case where the proceeds are required to be credited to the Consolidated Fabric Fund i.e. where the title to the property is either held in the name of the General Trustees or in the name of local trustees who are subject, as regards management and disposal and/or use of sale proceeds, to the direction and regulation of the General Assembly.
11. The levy shall also apply to the net proceeds of sales of property where title is held in the name of local trustees and not subject to the direction and regulation of the General Assembly so far as management and disposal is concerned and where the proceeds would not be credited to the Consolidated Fabric Fund; and in such cases (if the sale proceeds are not held by the General Trustees) it shall be the responsibility of the Presbytery to administer the levy and inform the General Trustees accordingly.
12. The levy shall in all cases be 10% of the net proceeds of sale and will be credited to the Central Fabric Fund.
13. Where, after the net proceeds of sale have been added to a congregation’s existing holding (if any) in the Consolidated Fabric Fund, the total holding is less than £75,000 or such other figure as may be fixed by the General Assembly from time to time (hereinafter referred to as the “base figure”) no levy shall be applied.
14. Where, after the net proceeds of sale have been added to a congregation’s existing holding (if any) in the Consolidated Fabric Fund, the application of the levy would result in that total holding being less than the base figure, the levy shall be reduced to the extent that the total holding shall never be less than the base figure.
15. The General Trustees will provide a form, for the benefit of the Presbytery and congregation, which will show how the levy, if requiring to be applied, has been calculated.
16. Where the levy is applied, the amount raised by it shall be allocated as follows:
  - (a) Where the proceeds require to be credited to the benefit of the congregation in the Consolidated Fabric Fund, to the Central Fabric Fund;

- (b) Where the proceeds do not require to be so credited but require to be held as a local fabric fund, at the discretion of the Presbytery either to the Central Fabric Fund or to a fabric project in relation to the buildings of any other congregation within the Presbytery or a combination of the two.
17. (a) When approving the sale of property, the Presbytery may recommend to the General Trustees that, prior to the operation of the levy, part or all of the net proceeds of sale shall be applied in the first instance towards the cost of a fabric project already approved by it either in principle or in detail.
- (b) Any determination passed by the General Trustees under section 3 of this Schedule 3 may specify, where appropriate, that the net proceeds of sale shall be applied in the first instance towards the cost of a fabric project and any balance remaining thereafter shall, subject to the application of the levy, be credited to the benefit of the Congregation in the Consolidated Fabric Fund.
18. Sections 10 to 17 of this Schedule 3 shall not apply to the sale of properties of dissolved congregations where the proceeds are destined for the Central Fabric Fund or Historic Properties Fund as provided for in Schedule 2 of this Act.

**Provisions in Terms of Proceeds of Sale and Shortfalls in Contributions to Central Funds**

19. With reference to the question of unjustified shortfalls, in terms of Act VIII 2003, in contributions to central funds:
- 19.1 Any heritable property held for the benefit of a congregation which is to be dissolved shall, if the same is not already vested in the General Trustees, subject to their concurrence, be transferred to the General Trustees prior to the dissolution and on the dissolution of a congregation any accumulated shortfalls in contributions to central funds, to the extent to which these have been determined by Presbytery to be unjustified, shall be the first charge on (i) the free moveable assets of the congregation and (ii) thereafter to the extent to which they have not been satisfied from such assets, the free proceeds of any redundant heritable property.
- 19.2 On the sale of a redundant heritable property as a direct result of a union or linking, if that congregation has a shortfall in its contributions to central funds which has been determined by Presbytery to be to any extent unjustified, the following provisions will apply:
- i. in the case of a property falling within the scope of section 3 of this Schedule 3, the General Trustees shall, before making an allocation to the Central Fabric Fund of any surplus monies, set against the same any shortfalls in contributions to central funds to the extent to which these have been declared by Presbytery to be unjustified; and
  - ii. in the case of properties not falling within the scope of section 3 of this Schedule 3, Presbytery shall look at the whole circumstances of the

congregation including (a) its total resources – in particular resources held by it locally and other sources from which it can obtain assistance (b) its commitments in respect of the funding of ministry in the parish (c) its givings record and potential and (d) its future in the context of the Presbytery Mission Plan and necessary buildings policy. If after doing so it considers that following receipt of the proceeds of sale of the redundant property the monies held are in excess of the reasonable fabric requirements of the congregation, it shall consider the funds held by or on behalf of the congregation for stipend purposes and, if it considers that stipend requirements are not sufficiently endowed, may direct that the whole or part of the surplus fabric monies be remitted to the General Trustees to be held in the Consolidated Stipend Fund on behalf of the congregation. If after this exercise the Presbytery considers that the monies held are still in excess of the reasonable fabric requirements of the congregation, it shall determine that part of the proceeds of sale of redundant properties should be applied against shortfalls in contributions to central funds if such shortfalls are declared by Presbytery to be unjustified.

## Schedule 4 – Manses

### Definitions

1. (a) **“Adjustment”**: any of the forms of adjustment carried out in terms of the Presbytery Mission Plan Act (Act VIII 2021).
- (b) **“Appeal”**: an appeal to the Ministries Appeal Panel against the decision of the MAC either as a tribunal of first instance or as an intermediate appeal tribunal.
- (c) **“Charge”**: a congregation or linked congregations in full status or a or New Charge Development congregation.
- (d) **“FAPLT”**: Faith Action Programme Leadership Team or any successor body.
- (e) **“Financial Board”**: the Kirk Session, Congregational Board, Deacons’ Court, Committee of Management or other congregational authority responsible for finance and for the maintenance of the ecclesiastical buildings of the congregation.
- (f) **“MAC”**: the Manse Adjudication Committee.
- (g) **“MAC Hearing”**: a hearing of the MAC to determine whether the Minister’s Own House shall be designated as the Manse of the Charge.
- (h) **“Manse Condition Schedule”**: the document contained in Appendix III of the Joint Report of the General Trustees and the Ministries Council to the 2007 General Assembly<sup>43</sup>.

<sup>43</sup> This is available at: <https://www.churchofscotland.org.uk/resources/building-and-property-resources#manses>

- (i) **“Manse of the Charge”**: whichever of the Parish Manse or the Minister’s Own House as shall, in accordance with these Regulations, be designated as the house which is to serve as the Manse of the Charge and in which the Minister of the Charge is to reside.
- (j) **“Minister”**: the minister who at the time of making an application to the Manse Adjudication Committee is currently inducted to a Charge or is considering induction to a Charge.
- (k) **“Own House”**: any residential property owned solely or jointly and severally by the Minister or in which the Minister is otherwise entitled to reside.
- (l) **“Parish Manse”**: the Manse of the Charge provided for the occupation of the Minister and which he or she would normally be expected to occupy in the performance of his or her duties.
- (m) **“Presbytery”**: the Presbytery of the bounds unless the context otherwise requires.

### **The Basic Position**

2. A Minister’s remuneration comprises both a stipend and a manse. Accordingly, before a Minister is inducted to a vacant Charge, Presbytery has to be satisfied that there is a suitable manse within the parish or in close proximity and that all work needed to make it so has been carried out.
3. A Minister has the right to live in the manse and a corresponding duty to occupy it.
4. Every congregation has a duty through its Financial Board to provide a wind and watertight manse which is habitable and to keep it in a good state of repair and decoration during its occupation by the Minister and family. The Minister should not have to spend his or her own stipend to achieve this.
5. A Minister must treat the manse fabric, including fittings and fixtures, with due care and consideration and, where these are provided by the local congregation, must leave them in the manse as the property of the congregation.
6. Presbyteries must ensure that manses are inspected at least once every year by the congregational Fabric Committee, that the Manse Condition Schedule is annually reviewed and that both necessary repairs and agreed annual maintenance and decoration are undertaken.
7. In order to facilitate this process the Minister must allow for suitable arrangements to be made for this annual inspection and the Minister and Financial Board should agree on access being provided for the annual programme of maintenance and decoration to be carried out.

8. The Financial Board must recognise its responsibility to have in place a rota for the systematic internal and external decoration of the manse. (A recommended programme is shown as part of the Manse Condition Schedule).

### **The Regulatory Essentials**

9. It is a requirement that the Manse of the Charge **at the very least** meets the tolerable standard criteria set out in section 86 of the Housing (Scotland) Act 1987 so that the standards are the same as if the building was being let on the private letting market.
10. The Financial Board must:
  - 10.1 take responsibility for the completion of a Manse Condition Schedule and thereafter be responsible for its revision at the onset of a vacancy, a five yearly inspection or at the completion of major works/repairs;
  - 10.2 ensure that all required works identified in the Manse Condition Schedule are carried out timeously and to a good standard;
  - 10.3 take responsibility for the upkeep of the grounds where these extend beyond the bounds of a reasonable garden surrounding the property. Otherwise the Minister shall be responsible, where the garden is of normal domestic proportions, for maintaining the garden and grounds in a neat and tidy condition. (The parameters for this will be set out in the Manse Condition Schedule);
  - 10.4 budget to meet the costs of the agreed programme of redecoration and repair.

### **Letting of Manses**

11. A manse vested in the General Trustees may in limited circumstances and subject to the approval of Presbytery and the General Trustees be let during a vacancy. Rent received will be credited to the benefit of the congregation in the revenue account of the Consolidated Fabric Fund.
12. The General Trustees will normally only approve a manse let if a congregation is in vacancy and has been given, or anticipates being given, permission to call a minister. In cases where the manse in question is redundant as a result of Adjustment, it should be sold.
13. It is for the Financial Board to ensure that the manse meets the statutory tolerable standard prior to entering into any letting arrangement.
14. A manse vested in local congregational trustees may in limited circumstances and subject to the approval of the Financial Board of the congregation and of Presbytery be let during a vacancy.
15. In all cases, the Financial Board must give careful consideration to the limited grounds on which vacant possession may be obtained, in the light of statutory tenant protections and the difficulties that are likely to be experienced in regaining vacant possession of the manse. If a potential tenant may have difficulty in finding alternative accommodation, whether because of the scarcity of similar-sized letting properties in

the area or for any other reason, or is seeking medium to long-term accommodation, the manse should not be let to that tenant.

### **Manse Adjudication Committee**

#### **Powers and Constitution**

16. Any application by a Minister to designate his or her Own House as the Manse of the Charge in place of the Parish Manse shall be made to the MAC which shall have power to designate the Minister's Own House as the Manse of the Charge
17. Where the Parish Manse falls within the scope of Schedule 3 of this Act (i.e. the title to the Parish Manse is held in the name of the General Trustees or it contains a section placing the trustees in whom it is vested under the control of the General Assembly so far as disposal is concerned), then:
  - (a) the MAC shall comprise two representatives of the General Trustees, one of whom shall be the Convener, and two representatives of FAPLT;
  - (b) the Chief Executive of the General Trustees (or his or her Depute) and a nominated senior staff member of FAPLT (or his or her Depute) shall attend each meeting of the MAC and shall be entitled to advise on questions of fact or procedure and to put questions to those appearing before the MAC, but they shall not take part in the making of decisions; and
  - (c) the Chief Executive of the General Trustees (or his or her Depute) shall act as the Clerk to the MAC.
18. Where the Parish Manse does not fall within the scope of Schedule 3 of this Act, then:
  - (a) the MAC shall comprise four representatives of the FAPLT, one of whom shall be appointed as Convener;
  - (b) A nominated senior staff member of FAPLT (or his or her Depute) shall attend each meeting of the MAC and shall be entitled to advise on questions of fact or procedure and to put questions to those appearing before the MAC, but he or she shall not take part in the making of decisions; and
  - (c) A nominated senior staff member of FAPLT (or his or her Depute) shall act as the Clerk to the MAC.

#### **Pre-MAC Hearing Procedures**

19. A Minister who wishes his or her Own House to be designated as the Manse of the Charge shall in the first instance consult with the Financial Board.
20. In the event of the Financial Board agreeing in principle to the Minister's Own House being designated as the Manse of the Charge, the Minister and the Financial Board shall make a joint submission to the Presbytery or, where the Financial Board does not agree to the Minister's request, the Minister alone may make a submission to the Presbytery.



21. The Presbytery shall meet separately with the Minister and the Financial Board. The Presbytery shall, after such further investigation as it deems appropriate, and on the basis of the factors set out in Appendix 1 to this Schedule 4, and taking account of the reports referred to in section 22 in this Schedule 4, make a decision as to whether or not to support the Minister's application to the MAC to have the Minister's Own House designated as the Manse of the Charge.
22. There must be submitted to the Presbytery written reports from an independent chartered surveyor or letting agent advising on the level of market rent which will require to be paid in respect of the Minister's Own House and on the level of rent which is likely to be received for the Parish Manse, taking into account factoring and other charges which may be incurred in respect of the letting of the Parish Manse. The written reports shall accompany any subsequent application to the MAC.
23. In the event of:
  - (a) the Presbytery not agreeing that the Minister's Own House should be designated as the Manse of the Charge, the Minister, with or without the support of the Financial Board, shall be entitled to submit an application to the MAC. In this case the application to the MAC shall be characterised as taking the matter to an intermediate appeal tribunal, the Minister bringing the matter forward as an appeal or a dissent-and-complaint against the Presbytery's decision; or
  - (b) the Presbytery agreeing that the Minister's Own House should be designated as the Manse of the Charge, the Minister, with or without the support of the Financial Board, shall be entitled to submit an application to the MAC. In this case the application to the MAC shall be characterised as an application to a tribunal of first instance.

#### **MAC Hearing and MAC Decision**

24. The Minister shall apply to the MAC for a decision as to whether or not the Minister's Own House shall be designated as the Manse of the Charge.
25. In determining whether or not the Minister's Own House shall be designated as the Manse of the Charge, the MAC shall be satisfied all of the factors set out in Appendix 1 to this Schedule 4 have been appropriately addressed, taking also into consideration the independent reports referred to in section 22 of this Schedule 4.
26. The MAC Hearing shall proceed in accordance with the Rules of Procedure set out in Appendix 2 to this Schedule 4.
27. Save where (i) the Minister has not been inducted to the Charge and is seeking prior approval to his or her Own House being designated as the Manse of the Charge, or (ii) the Parish Manse is deemed by an independent chartered surveyor to be uninhabitable, the MAC shall deal with an application and shall hold a MAC Hearing only where the Minister is, both at the time of the application and continuously up to and throughout the MAC Hearing, residing in the Parish Manse. Save as aforesaid, where a Minister is not residing in the Parish Manse or has moved into his or her Own House in advance of the decision by the MAC, the application shall automatically be refused.

### **Post-MAC Hearing Procedure**

28. The Clerk to the MAC shall forthwith notify the Minister, Financial Board and Presbytery in writing of the decision of the MAC which may be an interim decision pending the production of such further evidence as the MAC shall require.
29. Within 14 days of the date of intimation of the MAC decision, any of the parties attending or represented at the MAC Hearing shall be entitled to submit an Appeal to the Ministries Appeal Panel.
30. An Appeal must be made on the basis of one of the following grounds of appeal:
  - (a) that in the course of the MAC Hearing there were irregularities in the process;
  - (b) that the final decision of the MAC Hearing was influenced by incorrect material fact; or
  - (c) that the MAC Hearing acted contrary to the principles of natural justice.
31. In the event of an Appeal, a representative of the MAC shall be entitled to be heard by the Ministries Appeal Panel, along with the Minister, the Financial Board and the Presbytery.
32. The Ministries Appeal Panel shall then determine the matter in accordance with the terms of the Ministries Appeal Panel Act (Act VI 2007).
33. In the event that the MAC decides that the Minister's Own House shall be designated as the Manse of the Charge (and no Appeal is taken to the Ministries Appeal Panel or an Appeal is unsuccessful), then:
  - (a) subject always to sections 11 to 15 of this Schedule 4, that shall be deemed to be approval in principle for the Parish Manse to be let under a Private Residential Tenancy, the terms of which will require to be approved by the General Trustees or, if the title to the Parish Manse is held in the name of local trustees, by the Financial Board;
  - (b) the Solicitor of the Church shall act on behalf of the Financial Board in the preparation of a Lease Agreement between the Minister and the Financial Board in respect of the Minister's Own House; and
  - (c) the Minister's Own House shall be inspected on behalf of the Presbytery every five years in terms of Schedule 1 of this Act.
34. In the event that the MAC decides that the Parish Manse shall be designated as the Manse of the Charge (and no Appeal is taken to the Ministries Appeal Panel or an Appeal is unsuccessful), then the Minister must reside in the Parish Manse which shall continue to be the Manse of the Charge.

35. At any time, the Minister may only cease to occupy the Parish Manse once there exists a final decision of the MAC (which is not subject to an Appeal or which has been the subject of an unsuccessful Appeal) that the Minister's Own House shall be designated as the Manse of the Charge

#### **Miscellaneous**

36. This Schedule 4 shall not apply to the situation where there are two co-habiting adults and both are ordained ministers of the Church of Scotland, are inducted to different charges and are living together in the Parish Manse of one of the Charges.

#### **APPENDIX 1**

##### **Factors for determining whether the Minister's Own House shall be designated as the Manse of the Charge**

- (a) That the Minister's Own House is suitable to serve as the Manse of the Charge taking into account:
- (i) the location which must be within a reasonable distance of the Charge and the sphere of ministry;
  - (ii) the size and internal layout of accommodation;
  - (iii) the condition and state of repair; and
  - (iv) the potential availability of office and meeting facilities at a church or hall within the Charge.
- (b) That there will not be an adverse impact on the financial position of the congregation of the Charge as a result of the designation of the Minister's Own House as the Manse of the Charge taking into account the following factors:
- (i) the requirement to pay a full market rent for the Minister's Own House;
  - (ii) the requirement to pay Council Tax, Water Rates, etc for the Minister's Own House;
  - (iii) the requirement to pay an agreed share of the repair and maintenance costs of the Minister's Own House; and
  - (iv) the likelihood that there may be periods when the Parish Manse is un-let and no rent is being received to offset the payment of the full market rent for the Minister's Own House to the Minister.
- (c) That there are exceptional circumstances justifying the Minister's request that his or her Own House should be designated as the Manse of the Charge. In coming to its view the MAC shall:
- (i) consider such supporting evidence as might reasonably be made available, including medical or social work reports and photographs; and
  - (ii) recognise that the following situations may constitute exceptional circumstances:
    - where a Minister is within less than 12 months of retirement; or
    - where the Parish Manse is not suitable for occupation by a person with a disability or particular health issue, such person being the Minister or an immediate member of his or her family, and cannot be made suitable for such occupation.

## **APPENDIX 2**

### **MAC Hearing Procedures**

1. The MAC shall be deemed to be acting in a judicial capacity so that the rules of natural justice will apply.
2. The Minister, representatives of the Financial Board and representatives of the Presbytery shall be given the opportunity to make verbal submissions and to speak to any written evidence lodged in support of the application.
3. Professional advisers shall not be permitted to represent the Minister at a MAC Hearing.
4. The Minister, representatives of the Financial Board and representatives of the Presbytery and any other witness permitted by the MAC shall be heard separately and after giving evidence shall be asked to withdraw from the MAC Hearing but may be recalled in the event of the MAC seeking further information.
5. In coming to a decision as to whether to designate the Minister's Own House as the Manse of the Charge, the MAC shall consider the factors set out in Appendix 1 to this Schedule 4, and the independent reports referred to in section 22 of this Schedule 4.
6. The MAC Hearing may take place by audio and/or video conference call or other appropriate medium.

## **Schedule 5 – Glebes**

1. **Definition**  
“**Financial Board**”: the Kirk Session, Congregational Board, Deacons' Court, Committee of Management or other congregational authority responsible for finance and for the maintenance of the ecclesiastical buildings of the congregation.
2. For the removal of any doubt, no Minister shall have the right to the possession or lease of glebe land, other than such right as may have been or be granted to them by the General Trustees.
3. The General Trustees shall be entitled to grant a lease or right of possession or occupancy to any Minister or Financial Board of glebe land on such terms and conditions as shall be mutually acceptable to the parties
4. No Minister shall be entitled to grant any lease or right of possession or occupancy of or access to glebe land. For the avoidance of doubt, no rights in respect of glebe land may be granted by a Minister or any Financial Board to any detectorists without the prior written consent of the General Trustees.
5. Before selling or otherwise disposing of glebe land or leasing or granting any right in possession or occupancy thereof, the General Trustees shall consult with the Minister of the Parish or, if the Charge is vacant, with the Financial Board of the Congregation and (except in the case of seasonal grazing or mowing lets or other lets with security of tenure for a period of five years or less) the Presbytery of the bounds.

6. The net sale proceeds of glebe land shall be treated as the introduction of new capital into the Consolidated Stipend Fund in terms of the provisions of section 25 in Schedule 2.
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