

# PRESBYTERY MISSION PLAN ACT (ACT VIII 2021) (AS AMENDED BY ACTS VII AND XII 2022)

*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 Nurture Forum 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 been approved by the Presbytery, FAPLT and the General Trustees;
- 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 time-scales 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 at which the Mission Plan is approved or annually reviewed, 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 annual 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 Clerk, 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 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 OTHER PROVISIONS AS TO MISSION PLANS

2.4.1 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.

2.4.2 In the first Approved Mission Plan, and in every subsequent Approved Mission Plan formed after the process of annual evaluation and development and approval, the provisions of section 2.1.1(iii) shall apply.

2.4.3 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 the agreement of FAPLT and the General Trustees to the Mission Plan (or to an annual evaluation and development of the Mission Plan, as the case may be) has been recorded at the Presbytery meeting 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 evaluation or development) by sending intimation to the Principal Clerk (who in turn shall inform FAPLT and the General Trustees).

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 to annual evaluation and development of the Mission Plan), 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 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, before the matter is put to the Presbytery for decision. 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. The Presbytery shall have regard to the decisions arrived at by the respective office bearers and congregations, 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 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 Presbytery's decision on the Basis.

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 2.3, 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 annual 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 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.