

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 1¹.
- (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.

¹ As of May 2024, this amount is £50,000.

- (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):
 - (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 intrusions 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 Assembly².
- (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.

² This is available at: <https://www.churchofscotland.org.uk/resources/building-and-property-resources#manses>

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.