

III. CHURCH COURTS ACT (ACT III 2000) (AS AMENDED BY ACTS VII 2001, II 2002 AND III, VII 2003, I 2005 AND I, II, XII, XIV 2006, VII 2007) AND I, II, VII, VIII, 2010, I 2011 AND II 2017)

Edinburgh, 20th May 2000, Session 1

(incorporating Acts XV 1931, XVII 1931, XXII 1931, XX 1932, XXI 1932, IX 1933, X 1933, XI 1934, XXI 1944 (as amended by Act VIII 1996), XVIII 1956, XIX 1956 (as amended by Acts II 1980 and IV 2000), XXIV 1969, I 1992, III 1992 (as amended by Acts IX 1992, III 1993, IX 1994, IV 1996, II 1997, IX 1997 and III 1998), VI 1992, X 1994 (as amended by Act V 1997), II 1996, VII 1996, IV 2000, IX 2000 and VII and VIII 2001)

The General Assembly declare and enact as follows:–

Definitions

1. For the purposes of this Act:

- (1) “a minister” shall be a minister of the Church of Scotland, who
 - (a) has been ordained by a Presbytery of the Church of Scotland, or
 - (b) *this section repealed by Act I 2006*
 - (c) having left the service and jurisdiction of another Church, has been regularly inducted to a charge of the Church of Scotland, or
 - (d) having left the service and jurisdiction of another Church, has obtained a Certificate of Eligibility, and has been inducted to a charge or taken up an appointment within the service and jurisdiction of the Church of Scotland, or
 - (e) having demitted status or been judicially deprived of status, has had status restored by the General Assembly, and who has not, in any case, either entered the service and jurisdiction of another Church, or demitted status or been judicially deprived of status.
- (2) “a missionary” shall be a minister who, having been appointed or seconded by the World Mission Council to service in an overseas post within the jurisdiction of another Church, and been ordained by the Church of Scotland or the Church within whose jurisdiction he or she had served, and paid by the Church of Scotland for serving in such a post, has retired from such post on ground of age or infirmity and left the said service and jurisdiction without demitting status or being judicially deprived of status.
- (3) “a deacon” shall be a person who has been commissioned or ordained to the office of deacon by a Presbytery of the Church of Scotland or who, having been a lay missionary of the Church of Scotland has opted to accept the status of deacon, and is in good standing.
- (4) “an elder” shall be a person who has been ordained to office and regularly admitted to membership of a Kirk Session and is in good standing.
- (5) A minister shall be eligible for membership of the courts of the Church only as a minister.
- (6) A deacon shall be eligible for membership of the courts of the Church only as a deacon.

GENERAL ASSEMBLY

Membership

Ministers

2. The number of ministers to be appointed as commissioners by each Presbytery shall be one in every four or part of four of the sum of (a) the total number of charges, whether vacant or not, in the Presbytery and (b) the total number of other ministers who are members of Presbytery in virtue of being in appointments qualifying them for such membership in terms of this Act, provided that, for the avoidance of doubt, ministers who are members of Presbytery in terms of section 16 of this Act shall not be included in the above total for the purposes of calculating the number of commissioners, but shall be eligible to be appointed as commissioners. Only ministers who are members of the appointing Presbytery shall be eligible to hold commissions as ministers.

Elders

3. The number of elders to be appointed as commissioners by each Presbytery shall be equal to the number of ministers in terms of section 2 above. Only elders who are members of Kirk Sessions or New Charge Core Groups within the bounds of the appointing Presbytery shall be eligible to hold commissions as elders.

Diaconate

4. The number of deacons who may be appointed as commissioners by each Presbytery shall be one in every four, or part of four, of those who are members of the appointing Presbytery, but a Presbytery shall not be obliged to appoint the full number in each year. Only members of the diaconate who are members of the appointing Presbytery shall be eligible to hold commissions as deacons.

Failure to Appoint

5. Each Presbytery shall normally be expected to appoint its full number of ministers and elders each year; but in the event of failure to do so the Presbytery concerned shall submit to the Clerks of Assembly a statement of the reason for such failure, and the Committee on Commissions may, if not satisfied with the reason given, report accordingly to the General Assembly.

Other Members

6.
 - (a) The Clerks of Assembly, Procurator, and Law Agent, and the Convener and Vice-Convener of the Business Committee upon their election, of the Church shall be members of the General Assembly *ex officio*.
 - (b) The Moderator of the General Assembly shall upon election, be, by virtue of office, a member of the General Assembly, and shall also, by virtue of having held that office, be a member of the General Assembly during which his or her demission from office takes place.
 - (c) Presbyteries are authorised to elect as Commissioners to the General Assembly Former Moderators of the General Assembly who, in the case of ministers and deacons, are members of the Presbytery so electing them or, in the case of elders, are members of Kirk Sessions within the bounds.
 - (d) Such Commissioners shall be in addition to the quota of Commissioners to which the Presbytery is entitled, and an equalising elder or minister shall be elected in respect of any such Commissioner as appropriate to maintain overall equality of numbers of ministers and elders.

Moderator

7. (a) A minister, deacon or elder shall be eligible for election as Moderator of the General Assembly notwithstanding that he or she may not, at the time of election, be a Commissioner to the General Assembly.
- (b) The Moderator of the General Assembly shall be deemed to hold office from the time of his or her election by the General Assembly until he or she demits office upon the election of his or her successor.

Procurator

8. In the event of the occurrence of a vacancy in the office of Procurator of the Church during the currency of the year between sittings of the General Assembly and until the vacancy shall be filled up by the next General Assembly, the following Regulations shall take effect:–
 - (1) All communications which are appropriate to the duties of the Procurator shall be addressed to the Clerks of the General Assembly.
 - (2) Where an Act of Assembly, or by custom any duty other than the revisal of a libel, falls to be discharged by the Procurator, the Law Agent shall have power to discharge such duty.
 - (3) The emoluments of the Procurator during the period of a vacancy shall be at the disposal of the Assembly Arrangements Committee for the remuneration according to its discretion of such Counsel as may be employed under sub-section (3), and also of the Agent in respect of the additional duties imposed upon him or her.

PRESBYTERY

9. The Presbytery of the bounds shall be the Presbytery within whose bounds is situated
 - (1) the charge to which a minister has been inducted, or within which he or she serves as associate, assistant, or auxiliary, failing which
 - (2) the office, institution or other place from which a minister works, failing which
 - (3) wholly or mainly the area of a minister's responsibility, provided that, if the area extends over the bounds of more than one Presbytery, the Presbytery containing the larger or largest part of that area shall be the Presbytery of the bounds.
10. A Presbytery may appoint one or more places within its bounds where ordinary meetings shall be held.

Membership

Ministers

11. A minister in any of the following categories shall be a member of the Presbytery of the bounds:
 - (1) a minister inducted to a charge,
 - (2) an associate minister,
 - (3) a Pioneer Minister,
 - (4) a community minister,
 - (5) an assistant minister,

- (6) an Ordained Local Minister or an auxiliary minister in a designated appointment,
 - (7) a healthcare chaplain,
 - (8) a prison chaplain,
 - (9) a workplace chaplain,
 - (10) a university chaplain, and
 - (11) a professor or lecturer in an accredited institution as defined in Act X 2004.
12. A minister in any of the following categories shall be a member of the Presbytery of the bounds or, if there is no such Presbytery, of the Presbytery to which he or she belonged at the time of appointment or by which he or she was ordained for the appointment:
- (1) a minister appointed by a Committee of the Church to an overseas post,
 - (2) a minister appointed to a Commission as a chaplain to H.M. Forces.
13. A minister appointed to a post, other than those in sections 11 and 12 above and other than that of locum tenens for a parish minister, within the jurisdiction of the Church and under the direction and control of one of its courts or Committees, shall be a member of the Presbytery of the bounds or of the Presbytery within which is situated the congregation of which he or she is a member or of the Presbytery within the bounds of which he or she resides, as he or she may choose.
14. Any individual who has the status of minister of the Church of Scotland, and who does not fall into any of the categories listed in sections 11 to 13 above, shall be entitled to apply for membership of Presbytery on the basis of being registered in the Register of Ministry (as defined in the Registration of Ministries Act (Act II 2017)) in category **O** or **R**. Such minister should be registered with the Presbytery within the bounds of which is situated the congregation of which the minister is a member, or the Presbytery within the bounds of which he or she lives, or (only in the case of any appointment for which the status of ordained minister is a requirement) the Presbytery within the bounds of which the appointment is based, as he or she may choose.

Auxiliary Ministers

15. *sec 15 repealed by Act III 2003*

Retired Ministers

16. *sec 16 repealed by Act I 2006*

Resignation of Membership

17. *sec 17 repealed by Act I 2006*
18. A minister who has been permitted to resign his or her seat in Presbytery shall remain under the supervision and jurisdiction of the Presbytery which accepted the resignation, and may continue to exercise the functions of the ministry as defined in the Registration of Ministries Act (Act II 2017), as permitted according to his or her listing and categorisation on the Register of Ministry.

Transfer of Membership

19. (1) A minister who is a member of Presbytery in virtue of exercising a choice in terms of section 13 or 14 of this Act may subsequently apply to transfer membership to another Presbytery to which he or she is entitled to belong.

- (2) Applications for transfer of membership under section 19(1) of this Act shall be made in writing to the Presbytery to which it is proposed to transfer, and the said Presbytery shall have power to dispose of the application.

Roll of Presbytery

20. A minister inducted to a charge, introduced as an associate, ordained as an assistant, professor or lecturer or appointed to an overseas post or to a chaplaincy in H.M. Forces, shall have his or her name added to the roll of the Presbytery in virtue of such induction, introduction, ordination, or appointment; and a minister who is otherwise entitled to membership of Presbytery, including one who transfers from one Presbytery to another, shall present a certified extract of his or her entry on the Register of Ministry in the Presbytery from which he or she transferred or was most recently a member, shall give an affirmative answer to the question, "Do you declare your adherence to the vows which you took at your ordination?" and shall sign the Formula; whereupon his or her name shall be added to the Roll of the Presbytery.
21. Nothing in this Act shall affect the rights of any minister who is currently a member of a Presbytery to retain membership of that Presbytery.
22. *sec 22 repealed by Act I 2006*

Elders

23. Each Kirk Session within the bounds of a Presbytery shall not later than two months after the close of each General Assembly meet, and, with the exception undernoted, shall elect one of its own members (or, with permission of the Presbytery, any bona fide acting elder within the bounds of the Presbytery) to represent it in the Presbytery during the ensuing year. When a collegiate arrangement provides for two charges within a congregation the Kirk Session concerned shall appoint two elders.
24. Commissions in favour of representative elders shall run from 1st July to 30th June and may be presented to any meeting of Presbytery held after the close of the General Assembly, providing a quorum is present apart from the elder whose commission is presented. On the commission being declared in order the elder concerned shall be entitled to take his or her seat.
25. A Presbytery shall itself elect one elder in respect of each retired or extra-parochially employed minister who is entitled to a seat in it, and may elect a number of additional elders not in excess of one-third of the number of congregations within its bounds. Such elders shall be chosen from any Kirk Session within the bounds, and before taking their seats they shall produce certificates of bona fide eldership from the Kirk Sessions to which they belong.

The Diaconate

Note: sections 26 and 27 repealed and their provisions consolidated in Act VIII 2010.

Presbytery – General Provisions

28. Ministers, elders, and members of the diaconate as above provided, and no others, shall be entitled to membership of Presbytery.
29. A Presbytery may itself elect Corresponding Members, who shall have the right to attend all meetings and to speak on any matter before the Presbytery, but shall not have the right to vote.
30. The quorum of a Presbytery shall be three. Only one of these may be an elder, and his or her name must have been previously enrolled.

31. The Moderator of a Presbytery shall be chosen from among the members of the Court by free election, on the recommendation of the Business or other Committee of Presbytery, and shall hold office for a year at least and be eligible for re-election.
32. Every Presbytery shall appoint an Examination Committee to make an inspection of the Presbytery's Minute Book and report to the first ordinary meeting of the Presbytery in each year. An extract minute of the Presbytery's deliverance thereon shall be transmitted to the Legal Questions Committee not later than the 31st day of March in each year, and the Committee shall report thereon to the immediately following General Assembly.

KIRK SESSION

Moderator

33. A minister of a charge is a member of the Kirk Session as its Moderator, and an associate minister introduced in terms of section 32(4) of Act VIII 2003, is a member of the Kirk Session. Any other minister may be associated in the practical work of the Kirk Session of the congregation to which he or she is attached, with the right to attend meetings and to speak, but not to vote, but shall not be a member of the Kirk Session.
34. Where the Presbytery of the bounds appoints an Interim Moderator to the Kirk Session in any circumstance, the Interim Moderator shall be either a ministerial member of the Presbytery in terms of Act III 2000 or Act V 2001 or a member of the Presbytery selected from a list of those who have received such preparation for the task as the Ministries Council shall from time to time recommend or provide.

Membership

35. A deacon who is a member of Presbytery in terms of this Act shall not be eligible to be a member of a Kirk Session, but a deacon working in a parish is entitled to be a corresponding member of the Kirk Session; any other deacon, who is a member of Presbytery, may be associated in the practical work of the Kirk Session of the congregation of which he or she is a member.
36. (a) If an elder has absented himself or herself from the meetings of the Kirk Session for more than a year without due cause deemed satisfactory by the Kirk Session, the Kirk Session may find, after giving due notice for his or her interest, that he or she has ceased to hold office in that congregation.
(b) The same course may be followed by a Kirk Session in the case of a member of a Deacons' Court who has been absent from its meetings for more than a year.

Functions

37. The functions of the Kirk Session shall include the following:
 - (1) It is the duty of the Kirk Session to maintain good order, to cause the Acts of the Assembly to be put in execution and, subject to the provision of Act I, 2010, to administer discipline, to judge and determine cases, and to superintend the religious and moral condition of the parish.
 - (2) The preparation of prospective communicant member shall be the duty of the minister. The Kirk Session shall judge of the fitness of those who desire to receive the Sacraments, and shall have charge of the Communion Roll. It shall

have the responsibility of receiving and giving certificates of transference. It shall make up the electoral register of the congregation on the occasion of a vacancy.

- (3) The Kirk Session shall be responsible for the keeping of a Roll of Baptisms.
- (4) The Kirk Session shall arrange for adding to its number, receive resignations of its members, put them on trial if necessary, and admonish, suspend, or depose them.
- (5) The Kirk Session shall be responsible, where there is no Deacons' Court or Congregational Board, for the discharge of such duties as the Acts or resolutions of the General Assembly may lay upon it.
- (6) In parishes formerly *quoad omnia* the Kirk Session shall have charge of the ordinary collections, and be responsible for the lawful disposal of them.
- (7) The Kirk Session shall appoint the organist or precentor and the Church Officer.
- (8) The Kirk Session shall exercise supervision over all Sunday Schools, congregational organisations, and Mission work of the congregation.
- (9) The Kirk Session shall have such duties and responsibilities in connection with the setting apart of Deacons as the Acts of the General Assembly prescribe.
- (10) Subject to determination by Presbytery for purposes of parish adjustment, the Kirk Session shall determine the hours of public worship and the times of dispensing the Lord's Supper.

Kirk Session and Presbytery

38. Where circumstances exist that suggest to the Kirk Session that a dispute or disturbance has occurred in the congregation, which involves an elder or another office-bearer of the congregation and which requires formal action to be taken, the Kirk Session shall immediately refer the matter to the Presbytery of the bounds, and the Presbytery shall act as the court of first instance in the matter, subject to the normal rights of appeal to the Commission of Assembly. Where the Presbytery itself becomes aware of such circumstances, it shall proceed to exercise appropriate superintendence, informing the Kirk Session of all steps taken and instructing the Kirk Session to take further steps where necessary.
39. Whenever a Kirk Session meeting is called by the authority of the Presbytery in terms of the Local Church Review Act (Act I 2011) or for any other purpose relating to the superintendence of the congregation by the Presbytery, the representative of Presbytery appointed to moderate the meeting shall determine whether on any occasion the Kirk Session shall meet without the presence of the minister.

MISCELLANEOUS PROVISIONS

40.
 - (a) Minutes of Church Courts shall be signed by the Moderator who occupies the Chair at the time when the Minutes are submitted for approval. They shall also be authenticated by the signature of the Clerk of the Court.
 - (b) A similar rule shall be followed in the case of the Standing Committees of the General Assembly. The Minutes shall be signed by the Convener and Clerk of the meeting at which they are approved.
41. Petitions shall in all cases be presented to the Court of first instance-that is to say, to the lowest Court which has power to grant the prayer of the Petition.

42. The General Assembly declare, for the avoidance of doubt, that in accordance with practice and by consuetude section 7 of Act XIX 1889, is to be construed as meaning that an appeal on part of a case or on a point of procedure does not sist procedure, so that it is not necessary to take such appeals, as they may be included when an appeal is taken on the merits against a judgement which issues a case in a lower court, but if they are taken they will be heard only when an appeal on the merits as above is heard.
43. This Act shall come into force on 1 January 2001 and Acts XV 1931, XXII 1931, XX 1932, XXI 1932, IX 1933, X 1933, XI 1934, XXI 1944 (as amended by Act VIII 1996), XVIII 1956, XIX 1956 (as amended by Act II 1980), XXIV 1969, I 1992, III 1992 (as amended by Acts IX 1992, III 1993, IX 1994, X 1994, IV 1996, II 1997, IX 1997 and III 1998), X 1994 (as amended by Act V 1997), II 1996, and VII 1996 shall be repealed as at that date.