

XV. LONG-TERM ILLNESS OF MINISTERS ACT (AS AMENDED BY ACT VIII 2003, ACT VIII 2006, ACT VI 2013, ACT XV 2014, ACT II 2017 AND ACT X 2018)

Edinburgh, 30 May 2002, Session 7

The General Assembly enact and ordain as follows:

Definitions

1. For the purposes of this Act and the Schedule attached hereto:
 - (a) “the Council” shall be the Ministries Council;
 - (b) a “minister” shall be a minister inducted to a charge;
 - (c) “absence” shall be absence from duties through illness; absence for any other reason, including compassionate leave or study leave, shall be notified to the Presbytery and, in all cases except where this is not reasonably practicable, shall be subject to the permission of the Presbytery, but shall not be otherwise subject to the provisions of this Act;
 - (d) the “Consultative Committee of the Presbytery” shall be a committee of three presbyters, who on behalf of the Presbytery shall have sole and confidential access through the Ministries Council to the opinion of the Medical Adviser for the purposes of this Act, and shall advise the Presbytery with regard to its responsibilities.
 - (e) “Medical Adviser” shall be either (1) the minister’s own General Practitioner and/or consultant, or (2) an Occupational Health Physician appointed by the Ministries Council.

Procedure in the case of illness

2.
 - (1) Whenever the minister of a charge is absent due to illness, he or she shall inform the Ministries Council in terms of the Regulations appended as Schedule A to this Act.
 - (2) Failure to fulfil the requirements of Schedule A shall be intimated to the Presbytery, which may consider whether the minister is in desertion of his or her charge or whether any other matter of discipline has arisen.
3.
 - (1) Whenever the Clerk of the Presbytery is notified in terms of Schedule A, he or she shall record the dates of commencement and expiry of absence in a record apart.
 - (2) The Presbytery shall be informed by its Clerk of the minister’s absence (a) if an Interim Moderator is to be appointed, or (b) if the Presbytery requires to take any action in support or superintendence of the congregation or congregations, or (c) for the appointment of a Consultative Committee of Presbytery if the terms of section 4 may require to be fulfilled before the next ordinary meeting of the Presbytery.

Long-term illness

4.
 - (1) Following the date (“the section 4 date”) on which a minister’s absence has extended to six calendar months continuously, or has totalled 300 days out of any twenty two month period:
 - (a) the Council shall immediately remind the minister of the requirements of this section;

- (b) where the Medical Adviser is an Occupational Health Physician appointed by the Ministries Council, the minister shall consult with the Occupational Health Physician and shall give the Occupational Health Physician permission to consult with any medical practitioner or consultant whose opinion the Occupational Health Physician requires in order to prepare his or her own opinion on the likely duration of the minister's absence; whether the Medical Adviser is the minister's own General Practitioner and/or consultant, or an Occupational Health Physician appointed by the Ministries Council, the minister shall promptly sign any mandate required for the release of medical files and/or information to the Occupational Health Physician, the Presbytery or the Ministries Council;
 - (c) the minister shall make available to the Consultative Committee of the Presbytery, through the Ministries Council, the opinion of the Medical Adviser in terms of subsection (b) above, and shall meet with the said Committee;
 - (d) the Consultative Committee shall inform the Council of the recommendation it intends to bring to the Presbytery, and shall receive within seven days of such intimation any comments and advice from, or on the authority of, the Secretary of the Council;
 - (e) the Consultative Committee shall inform the Presbytery, at an ordinary meeting of the Presbytery of (i) the likelihood of the minister's returning to work within three months after the section 4 date and (ii) the comments received in terms of section 4(1)(d) from the Ministries Council;
 - (f) for the avoidance of doubt, the Consultative Committee shall retain in confidence all medical information received and shall not divulge any of it to the Presbytery;
 - (g) the Presbytery shall take such further pastoral or superintendence measures as may be required, and the Council shall offer the minister such assistance and advice as it deems appropriate in all the circumstances.
- (2) In the event of failure by the minister to fulfil the requirements of section 4(1) within a reasonable period of time in accordance with medical advice, the Presbytery may consider whether the minister is in desertion of his or her charge or whether any other matter of discipline has arisen.
- (3) Section 4(1) sets out the standard timeline to be followed. Alternatively, where the requisite medical advice cannot be obtained within a timeframe so as to determine the likelihood of the minister returning to work within three months after the section 4 date, then the "section 5 date" in terms of section 5 below shall be construed so as to be instead a date determined by the Consultative Committee, being a date not later than six months after the section 4 date.

Dissolution of the Pastoral Tie

5. If, in terms of section 4(1), the Presbytery has been advised that there is no prospect of the minister's return to duties on or before a day three months after the section 4 date ("the section 5 date"), it shall take account of the comments received in terms of section 4(1)(d) and shall either:

- (a) inform the minister that, if he or she has not resumed duties by the section 5 date, his or her pastoral tie shall be dissolved by the Presbytery¹, or
 - (b) declare that exceptional circumstances exist that justify a decision not to dissolve the pastoral tie in terms of section 5(a), and record its reasons in its Record Apart, along with a note of the comments received from the Council.
6. (1) If, in terms of section 4(1), the Presbytery has been advised that there is a prospect of the minister's return to duties on or before the section 5 date, but the minister does not return to duties by that date, the requirements of section 4(1)(a) to (d) above shall again be fulfilled, and the provisions of section 4(2) shall apply.
- (2) The Presbytery shall meet as soon as possible thereafter, shall take account of the advice of its Consultative Committee and the comments received in terms of section 4(1)(d), and shall either:
- (a) inform the minister that his or her pastoral tie shall be dissolved, on a date that is (i) determined by the Presbytery with due regard to all the circumstances, and (ii) within three calendar months of the section 5 date, or
 - (b) declare that exceptional circumstances exist that justify a decision not to dissolve the pastoral tie in terms of section 6(2)(a), and record its reasons in the Record Apart, along with a note of the comments received from the Council.
7. In the event of the Presbytery making a decision in terms of section 6(2)(b) above, the requirements of sections 4(1)(a) to (d) and 6(2) shall be fulfilled at intervals of three calendar months for the whole duration of the minister's absence.
8. Before dissolving a pastoral tie in terms of this Act, the Presbytery shall be satisfied that the minister and his or her family have received advice from the Council.
9. For the avoidance of doubt, it is hereby declared that in cases of dissolution of the pastoral tie in terms of this Act, it shall not be necessary for the minister to make formal application to demit. Arrangements shall be made for the manse to be vacated within such timescale as appears reasonable in the circumstances.

Monitoring of Absence Due to Ill-health

10. In order to facilitate the pastoral support of the minister by the Ministries Council and the Presbytery, the following arrangements shall apply.
- (1) Where an absence continues for three months, the minister and the Ministries Council may consult on the nature of his or her illness, and any extent to which it might be work-related.
 - (2) The Ministries Council, through its staff members, shall determine whether to refer the minister to the Church's Occupational Health Physician in terms of sub-section (3).
 - (3) In the event of such referral, the minister shall consult with the Occupational Health Physician, who shall report to the Council on such matters pertinent to the Ministries Council's responsibilities in terms of sub-section (4).

¹ The Council shall provide information on any application to retire from active ministry on grounds of ill-health, but the dissolution of a pastoral tie in terms of this Act does not necessarily constitute demission on grounds of ill-health for e.g. pension purposes.

- (4) The Ministries Council shall thereupon consult with the Presbytery, giving it such information as is necessary to determine what further steps of a pastoral nature need to be taken in support of the minister and the congregation.
- (5) In the event of failure by the minister to fulfil the requirements of sub-sections (1) and (3), the Presbytery may consider whether any matter of discipline has arisen.

Confidentiality

11. (1) In the interests of confidentiality, all procedure under this Act shall be taken in private, and no information shall be shared except as required above.
- (2) Notwithstanding the foregoing generality, and in the event of a dissent-and-complaint being taken against a decision in terms of section 5(b) or section 6(2)(b), the reasons of the Presbytery, as recorded in the Record Apart, and the comments of the Council shall be available to the Commission of Assembly.

Qualified Practising Certificates

12. *Sec 12 repealed by Act II 2017. Qualified Practising Certificates are superseded by the provisions of the Registration of Ministries Act (Act II 2017) as to being registered on the Register of Ministry.*

Registration of Ministries

13. Where a pastoral tie is severed in terms of this Act, the minister shall be registered on the Register of Ministry in Category **R** or Category **I**, the decision as to which category being determined by the Presbytery having consulted with the Ministries Council. The normal rights of appeal against the Presbytery's decision in terms of the Registration of Ministries Act (Act II 2017) shall apply.

Repeal

14. Act X 2000 anent Long-term Illness of Ministers in Charge is hereby repealed.

Schedule A
Regulations anent Illness of Ministers of Charges

1. (1) Whenever a minister is absent through illness, then such minister, or his or her appointed nominee, shall, within seven days of the first day of absence, notify the Secretary of the Council in writing.
 - (2) Where an absence continues for more than seven days, the minister, or his or her appointed nominee, shall, within fourteen days of the first day of absence, provide a medical certificate to the Secretary of the Council.
 - (3) The minister, or his or her appointed nominee, shall continue to provide medical certificates covering the whole period of absence, and a final certificate showing the date of return to work, throughout the whole period of absence, each such certificate to be sent to the Secretary of the Council within seven days of its date of issue.
2. Whenever the Council is initially informed by a minister of his or her absence due to illness, it shall notify both the Clerk to the Presbytery of the bounds and the Payroll Unit of the General Treasurers' Department.
 3. A minister absent in terms of this Act shall receive full stipend appropriate to the charge and years of service, subject to tax and National Insurance contributions and subject to allowance made for state benefits received in respect of the illness.
 4. When a minister has been absent from work for six months the payroll unit will make appropriate arrangements for the payment of stipend in terms of regulation 3. At the same time the Ministries Council will make contact with both the minister and the Presbytery to ensure that appropriate pastoral support and advice are in place and to advise regarding the use and terms of this Act.