

VII. APPRAISAL AND ADJUSTMENT ACT (ACT VII 2003) (AS AMENDED BY ACTS VIII 2004, III 2006, III 2008, VI 2011, VII 2014, VI 2015, VIII 2016 and XI 2017)

Edinburgh, May 17 2003, Session 1

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

1. Interpretation

For the purposes of this Act the following terms shall have the meanings hereby assigned to them:–

- (a) A “charge” shall mean a sphere of pastoral duty to which a minister is inducted;
- (b) A “congregation” shall mean a company of persons associated together in a parish whose names are on the Communion Roll and Adherents’ Roll and who are under the pastoral oversight of a minister or ministers (or an Interim Moderator) and a Kirk Session, for Christian worship, fellowship, instruction, mission and service;
- (c) A “Financial Board” shall mean the body responsible for managing the finances of a congregation, e.g. Congregational Board, Deacons’ Court, Committee of Management, etc.;
- (d) “The Assembly’s Committee” shall mean the Partnership Development Committee of the Ministries Council;
- (e) “Planning Principles” shall mean the principles set out in the Schedule to this Act;
- (f) “The Presbytery” shall mean the Presbytery of the bounds of the charge concerned;
- (g) A “vacancy” shall mean the state in which a charge finds itself when it is without an inducted minister and shall include the situation of a prospective vacancy where an Interim Moderator has been appointed under section 6(1) of the Vacancy Procedure Act (Act VIII 2003), and “vacant” shall be construed accordingly;
- (h) “Basis of Adjustment” shall mean the written terms upon which adjustment is implemented.

2. The Presbytery Planning Process

All Presbyteries shall require to have a Presbytery Plan, prepared in accordance with sections 3 to 5 of this Act.

THE PRESBYTERY PLAN

3. Appraisal

- (1) The Presbytery shall undertake an annual appraisal of the deployment of all ministries in charges within its bounds, and shall agree a plan which shall narrate in respect of each charge the outcome of the appraisal conducted.
- (2) The Presbytery shall submit to the Assembly’s Committee by 31 December each year a list of amendments made to the Plan during the year just ending, or report if no amendments have been made.
- (3) Concurrence shall require to be obtained from the Assembly’s Committee every five years, or whenever the Presbytery alters the plan in such a way as to increase the staff complement or other resources allocated to any charge.
- (4) Presbyteries shall provide the Assembly’s Committee with extract minutes of all actions taken in terms of this section of this Act.

- (5) On receiving intimation of the concurrence or non-concurrence of the Committee, the Presbytery shall intimate the same to all Kirk Sessions within twenty one days.
- (6) Any congregation directly involved in or named in any change to the Plan shall be cited to appear for their interests at any meeting of the Presbytery at which a decision is to be made in terms of this Act.

4. **Content of the Plan**

The plan should include the following information about the Presbytery area as a whole:–

- (a) The period of time for which the Plan is made should be specified, this period to be not less than ten years and to remain effective for not less than ten years with the plan being updated annually during the said ten-year period;
- (b) Indication of the number, nature and pattern of charges and all other appointments, and the number and location of buildings, which the Presbytery considers necessary at the end of the specified period;
- (c) Indication, where deemed appropriate, of provision for Gaelic speaking communities by designating one or more congregations as follows:
 - (i) Gaelic Essential: it is essential that the Parish Minister conduct regular Gaelic worship;
 - (ii) Gaelic Desirable: regular Gaelic worship will be provided and it is desirable that the Parish Minister should have a knowledge of Gaelic;
 - (iii) Gaelic Worship: provision will be made for Gaelic worship but there is no expectation that the Parish Minister will have any knowledge of Gaelic.

The Presbytery shall have regard to this classification in deciding whether to sustain a call in terms of Act VIII 2003 anent Vacancy Procedure.
- (d) Indication of likely substantial housing or other developments and their effect on the plan.
- (e) In preparing a Presbytery Plan, a Presbytery shall apply the Planning Principles. Failure to do so is an error in church law.

5. **Outcomes of Appraisal Process**

- (1) In respect of each charge, the plan shall contain one of the following appraisal outcomes:–
 - (a) That no adjustment is foreseen during the lifetime of the plan.
 - (b) That adjustment in a form specified from amongst those described in section 10 below shall be effected immediately.
 - (c) That adjustment in a form specified from amongst those described in section 10 below shall be effected when the charge next falls vacant.
 - (d) That adjustment in a form specified from amongst those described in section 10 below shall be necessary, but shall not be effected until after the next vacancy: the Presbytery may combine this decision with a decision to seek an Interim Ministry appointment when the charge next falls vacant.
 - (e) That appraisal, and the determination of any adjustment, shall be deferred until the charge next falls vacant.

- (2) In respect of every ecclesiastical building in every charge in the Presbytery (except manses and houses occupied by retired ministers and/or their spouses) the Plan shall contain one of the following declarations:
- (a) That the building is expected to remain in use beyond the lifetime of the Plan;
 - (b) That the building is expected to be closed during the lifetime of the current Plan, under an adjustment contained therein or otherwise;
 - (c) That the building is expected to be disposed of as soon as possible under an adjustment contained in the Plan or otherwise;
 - (d) That the Presbytery is unable to make a determination in relation to a building; and in cases (b), (c) and (d) the General Trustees shall be empowered, at their discretion and in consultation with the Assembly's Committee, to refuse any application made in respect of that building in terms of Regulations I 1998 regarding Work at Ecclesiastical Buildings (as amended by 2000 Regulations VII).

6. Appeal against Appraisal Decisions

- (1) Upon formal intimation at a Presbytery meeting that the Assembly's Committee has concurred or has not concurred with a plan or any part thereof, a Presbytery or any of its members or any Kirk Session within its bounds may dissent-and-complain or appeal against the plan or any part thereof and the Presbytery may appeal the Assembly's Committee's non-concurrence. Intention to dissent-and-complain or appeal shall be intimated within fourteen days to the Principal Clerk (who in turn shall inform the Assembly's Committee). The appeal may be brought on any one or more of the grounds set out in section 2(3) of the Appeals Act (Act I 2014), and/or additionally a party may appeal on the ground that the decision is, in all the circumstances, unreasonable. Such an appeal shall be heard by the Appeals Committee of the Commission of Assembly in terms of the Appeals Act and to any such process the Kirk Session, the Presbytery and the Assembly's Committee shall all be parties. Any Kirk Session which wishes to support the Assembly's Committee's non-concurrence may become a party to the appeal process.
- (2) Except where the Presbytery judges that an appeal intimated in terms of subsection (1) above requires to be disposed of immediately for the advancement of the whole plan or in the interests of fairness to other congregations, such appeal shall be submitted to the Appeals Committee of the Commission of Assembly at the point at which the relevant part of the plan falls to begin to be implemented and after the negotiation of a Basis of Adjustment.
- (3) Any appeal in which Grounds of Appeal have been lodged before 31 May 2016 shall be dealt with under the law as it existed prior to 20 May 2015.

7. Implementation of the Plan

The Presbytery shall proceed, as far as possible, to implement a completed or amended plan, subject to the rights of appeal and dissent-and-complaint described in section 6 above. All adjustment effected in implementation of a plan, and any instruments for adjustment and future planning deployed in terms of this Act, shall be intimated to the Assembly's Committee and by them to the relevant Councils and agencies of the General Assembly.

8. Presbytery Plans and Permission to Call a Minister

- (1) A vacant charge in respect of which an agreed plan exists may be given permission to call a minister, subject to the provisions of Act VIII 2003, and further provided that
 - (a) the plan clearly provides that no adjustment is required before a new minister is inducted, or
 - (b) the adjustment described in the plan has been fully implemented, or
 - (c) the Presbytery has already negotiated a basis for the adjustment described in the plan and is able to implement it before sustaining a call and there is no outstanding appeal or dissent-and-complaint.
- (2) A vacant charge shall not be given permission to elect a minister if
 - (a) a basis of adjustment has not yet been agreed between the Presbytery and the congregation, and/or
 - (b) there is any outstanding appeal or dissent-and-complaint to be heard by the Appeals Committee of the Commission of Assembly, and/or
 - (c) appraisal requires to be conducted in terms of this Act.

9. Suspension of the Implementation of the Plan

- (1) On cause shown, and subject to the right of immediate appeal or dissent-and-complaint, the Presbytery or the Assembly's Committee may suspend the implementation of the plan or part thereof. The cause of the suspension shall be resolved among the parties as soon as possible by further appraisal and amendment of the plan.
- (2)
 - (i) Where a Plan or part of a Plan has been suspended, or where a Presbytery has not revised its plan and received concurrence within a deadline set from time to time by the General Assembly, but in either case the Presbytery desires to deal with a vacancy, it shall proceed as set out in the remaining sub-sub-sections of this section 9(2).
 - (ii) When it has been decided that the question of readjustment shall be pursued in any vacancy, the Presbytery shall remit to the appropriate Standing Committee, or shall appoint a Special Committee, to confer with local parties and with the Assembly's Committee with a view to settling the question, provided that:
 - (a) Conference with local parties shall be with the ministers and with the elders and members of the Financial Board (if any) of the congregations which may be involved in readjustment;
 - (b) No proposed readjustment involving the rights of the minister shall be discussed with the office-bearers of his or her congregation as in (a) above without his or her consent;
 - (c) All meeting of office-bearers under this section shall be called by the Presbytery's Committee and a minister or elder, appointed by the said Committee shall act as Convener for the purposes of conference. In no case shall a minister preside at any meeting called under the terms of this Act where matters in which his or her interests are involved are discussed or decided.
 - (iii) After conference as above, the Presbytery may decide to allow the vacant congregation to call a minister without restriction, but no decision under this section may be implemented by the Presbytery without the concurrence of the Assembly's Committee.
 - (iv) In all other cases a detailed basis of readjustment shall be negotiated with the office-bearers involved, and afterwards presented to meetings of the

congregation or congregations involved, before the matter is put to the Presbytery for decision (except that there shall be no basis in the case of a restricted choice). The Presbytery shall have regard to the decisions arrived at by the respective congregations, provided always that:

- (a) Any decision of a Presbytery to implement any form of readjustment shall be subject to the concurrence of the Assembly's Committee;
 - (b) No basis affecting the rights of a minister shall be presented to his or her, or any other, congregation without his or her written consent;
 - (c) All meetings of congregations under this section shall be called by the written authority of the Presbytery specifying the exact nature of the business, and a minister or elder appointed by the Presbytery as in paragraph 9(2)(ii)(c) above shall act as Convener;
 - (d) Any congregation directly involved in and named in any proposed basis shall be cited to appear in their interests at any meeting of the Presbytery at which a decision is to be made in terms of this Act, and also at any meeting of the Presbytery at which the concurrence or non-concurrence of the Assembly's Committee is to be intimated.
 - (e) Notwithstanding the provisions of this section, while it shall be the duty of the Presbytery to make every effort to secure approval of the congregations involved, the right of the Presbytery to effect readjustment in terms of this Act is hereby affirmed, subject to the consent of any minister or ministers whose rights are involved, and subject also to the concurrence of the Assembly's Committee.
- (v) In any case before the Presbytery in which a decision in terms of sub-sections (iii) or (iv) above is reached, proceedings shall be sisted immediately after the decision has been made and before parties are recalled and judgment intimated. An Extract Minute of the case up to this point shall then be adjusted and approved, and the Clerk shall be instructed to transmit it to the Assembly's Committee. At its next meeting thereafter, the Assembly's Committee shall consider the matter, and immediately intimate to the Presbytery whether or not they concur in the decision. At the next meeting of the Presbytery, parties will be recalled and judgment intimated together with the intimation from the Assembly's Committee.
- (vi) If the Assembly's Committee has concurred in the decision of the Presbytery, the Presbytery shall proceed to implement the decision, subject to the right of dissent-and-complaint (by a member of Presbytery) or appeal (by a Kirk Session) against the decision of Presbytery. Upon formal intimation at a Presbytery meeting that the Assembly's Committee has concurred in the decision of Presbytery, any member of Presbytery or any Kirk Session within its bounds may dissent-and-complain or appeal against the decision. Intention to dissent-and-complain or appeal shall be intimated within fourteen days to the Principal Clerk (who in turn shall inform the Assembly's Committee). The appeal may be brought on any one or more of the grounds set out in section 2(3) of the Appeals Act (Act 1 2014), and/or additionally a party may appeal on the ground that the decision is, in all the circumstances, unreasonable. Such a dissent-and-complaint or appeal shall be heard by the Appeals Committee of the Commission of Assembly in terms of the Appeals Act and to any such process the Kirk Session, the Presbytery and the Assembly's Committee shall all be parties. Any Kirk Session

- which wishes to support the Assembly's Committee's non-concurrence may become a party to the appeal process.
- (vii) If the Assembly's Committee has not concurred in the decision of the Presbytery, parties shall be removed, and the Presbytery may resolve to confer further with the Assembly's Committee. Thereafter:
- (a) If the Presbytery does not so resolve, or if, after such conference, no agreement is reached, the Presbytery shall have a right to appeal against the Assembly's Committee's non-concurrence to the Appeals Committee of the Commission of Assembly under the Appeals Act (Act I 2014). Any Kirk Session which wishes to support the Assembly's Committee's non-concurrence may become a party to the appeal process, or
- (b) If, after conference as above, agreement is reached, matters shall proceed as provided for in section 9(2)(iv).

ADJUSTMENT

10. Implementation of the Plan through Adjustment

- (1) The Presbytery shall only move to implementation of the Plan through the forms of Adjustment specified in section 10(2) below once all ecclesiastical buildings listed in the Plan, or part thereof, have been categorised in terms of section (a), (b) or (c) of section 5(2).
- (2) The Presbytery plan may specify any of the following forms of adjustment of charges:—
- (i) *Union*
Two or more congregations may be united to form one congregation, and such union shall involve the union of charges, parishes, Kirk Sessions, Financial Courts, property and funds and, except in special circumstances where provision is made to the contrary in the Basis of Union, all congregational agencies and organisations.
- (ii) *Linking*
Two or more charges may be linked to form one charge, so that the congregations are served by one ministry, the constitutions of the said congregations being in no other way affected.
- (iii) *Deferred Union or Deferred Linking*
- (a) When for any reason it is not possible to unite a vacant congregation with another congregation under the minister of the other congregation, the Presbytery may decide to unite them on the understanding that the implementation of such decision shall be deferred until that minister's interest has terminated.
- (b) The Basis of Deferred Union shall provide (i) that the congregations to be united shall elect a minister who shall be inducted in the first instance as minister of the vacant congregation, and (ii) that on the termination of the other minister's interest the Union shall immediately be effective under the minister so elected and inducted.
- (c) If another vacancy occurs in the originally-vacant congregation before the termination of the other minister's interest, the Basis of Deferred Union shall remain in force and the congregations shall elect another minister as in (b) above; subject to the *proviso* that the Presbytery

- may decide to recall the Basis of Deferred Union with a view to making another adjustment decision.
- (d) A linking may be deferred in the same manner as a union in terms of subsections (a) to (c) above.
- (iv) *Guardianship*
- (a) A charge may continue indefinitely without the right to call a minister under the Guardianship of the Presbytery. In such a case, the Presbytery will appoint an Interim Moderator who will ensure that appropriate arrangements are put in place to enable the ongoing ministry and mission of the congregation(s).
- (b) At the request of the Kirk Session, or on the initiative of the Presbytery, the Presbytery may recommence vacancy procedure in terms of Act VIII 2003, subject to the right of appeal or dissent-and-complaint.
- (v) *New Charge Development*
- A new charge may be established in terms of Act XIII 2000.
- (vi) *Transportation*
- (a) The Presbytery may move a congregation from one place of worship to another, and, where that involves a change of parish, it shall be designated "transportation".
- (b) Where transportation is effected, the Presbytery shall take such steps of adjustment as may be necessary to ensure that the parishes involved are allocated to defined charges.
- (vii) *Parish Groupings*
- The Presbytery may declare that two or more charges shall have responsibility for a single area. The Basis of such an adjustment shall determine the extent to which the charges shall operate as a Parish Grouping, for instance in the sharing of worship, personnel, education resources, mission initiatives, congregational organisations etc.
- (viii) *Dissolution*
- (a) A charge may be dissolved by the Presbytery of the bounds.
- (b) The Basis of Dissolution shall provide *inter alia* for the issuing of certificates of transference to all the members of the congregation, the allocation of the parish to another charge or charges, the destination of the property and funds, and the transfer to the General Trustees prior to dissolution of any heritable property held by or for behoof of the congregation, title to which is not already vested in the General Trustees.
- (ix) *Alteration in number of ministers*
- The Presbytery may determine, in respect of any charge, the amount of ministerial time required by any charge, and the number and nature of appointments necessary, provided that (except in the case of job-sharing) the Presbytery shall identify one ministry as that of minister of the charge and moderator of the Kirk Session.
- (x) *Other Form of Ministry*

After consultation with the Assembly's Committee, the Presbytery may devise a new form of adjustment or ministry, provided that such form is not inconsistent with this Act or any other Act or deliverance of the General Assembly.

11. **Agreement to Union or Linking under an Incumbent**

- (1) When an explicit provision of a Basis of Union or Linking is that the minister of one of the charges involved shall be the minister of the united or linked charge:
 - (a) no such Basis of Union or Linking shall be published without the written consent of the minister,
 - (b) when the Basis of Union or Linking is put to the vote in terms of section 13 below, the procedure shall be that, subject to the provision of paragraph (c) below, all congregations involved shall be asked, separately by secret ballot –
 - (i) to approve the terms of the said Basis, apart from those dealing with its immediate implementation under the incumbent of one of them, and, if approving these terms,
 - (ii) to decide whether the union or linking should be immediate, in terms of the remaining provisions of the Basis, or deferred;
 - (c)
 - (i) where the proposed minister has previously been inducted on unrestricted tenure in one of the congregations, that congregation shall decide only in terms of sub-paragraph (b) (i) above;
 - (ii) where one of the congregations is a Reviewable Charge, that congregation shall decide in terms of sub-paragraphs (b)(i) and (b)(ii) above;
 - (d) if any congregation votes against immediate union or linking in terms of (b)(ii) above, the Presbytery shall not approve the Basis of Union or Linking, but shall renegotiate, with a view to producing a Basis of Deferred Union or Linking or some other form of adjustment.
- (2) In the case of a minister who becomes minister of a united or linked charge in terms of a Basis of Deferred Union or Linking, the united or linked charge shall be regarded as a modification of the charge to which he or she has already been inducted so that no further induction shall be required; but in all such cases the Presbytery shall conduct a service of introduction.

12. **Instruments for Adjustment and Future Planning**

- (1)
 - (a) The Presbytery may utilise in any charge either of the instruments for future planning described in subsection (2) below, subject to a right of appeal or dissent-and-complaint, which shall be heard by the Appeals Committee of the Commission of Assembly at the point at which the Presbytery's decision would otherwise take effect.
 - (b) Where the use of such instruments is anticipated, the intentions of the Presbytery shall be narrated in the Presbytery plan but shall not require the concurrence of the Assembly's Committee.

(2) (a) *Reviewable Charge*

In respect of any charge, the Presbytery may decide that such charge shall be a Reviewable Charge, meaning that its next minister shall be inducted on condition that the Presbytery may terminate the tenure of the minister at any time and for any reason which may seem good to the Presbytery, on terms specified in the Basis of Adjustment and always upon giving the minister six months' notice in writing. On the date of termination the minister shall be deemed to have demitted his or her charge.

The minister shall be free to seek to demit or be translated as in the ordinary case of any minister inducted to a charge, provided that, if the Reviewable Charge is that minister's first charge, this constitutes exceptional circumstances in terms of section 4 of the Vacancy Procedure Act (Act VIII 2003).

Before proceeding to induct a minister in terms of this section, the Presbytery shall submit to him or her the Basis of Reviewable Charge, and shall obtain and record his or her written acceptance thereof.

(b) *Transference*

(i) A parish and charge may be transferred from the bounds and jurisdiction of one Presbytery to the bounds and jurisdiction of another with the agreement of both Presbyteries.

(ii) In the event of disagreement between the two Presbyteries, the Presbytery desiring the transference may petition the Appeals Committee of the Commission of Assembly and shall notify the other Presbytery of its Petition.

(iii) Transference shall be a necessary preliminary to union or linking of congregations which are not within the bounds of one Presbytery.

13. Achievement of Adjustment

(1) When the Presbytery decides to negotiate a Basis of Adjustment in a charge in accordance with a plan, it shall remit to the appropriate Standing Committee, or to a committee appointed for the purpose, the task of conferring with local parties, provided that:

(a) Conference with local parties shall be with the ministers and with the elders and the members of the Financial Board (if any) of the congregations which may be involved in adjustment, and may include consultation with other members of a ministry team;

(b) No proposed adjustment involving the rights of the minister shall be discussed with the office-bearers of the congregation as in (a) above without his or her consent in writing;

(c) All meetings of office-bearers under this section shall be called by the Presbytery's Committee and a minister, deacon or elder, appointed by the said Committee shall act as Convener for the purposes of conference. In no case shall a minister preside at or attend any meeting called under the terms of this Act where matters in which his or her interests are involved are discussed or decided.

(2) A detailed Basis of Adjustment shall be negotiated with the office-bearers involved, and in the course of the negotiation it shall be displayed to the

Assembly's Committee, which may offer advice on the framing of its terms. The Basis of Adjustment shall be voted upon by the congregation or congregations involved, before the matter is put to the Presbytery for decision. Those entitled to speak and vote at such a congregational meeting shall include those who have been formally recognised by the Kirk Session as adherents of the congregation. For the avoidance of doubt, no other form of decision-making shall be valid.

The Presbytery shall have regard to the decisions arrived at by the respective congregations, provided always that:

- (a) no Basis affecting the rights of a minister shall be presented to his or her, or any other, congregation without his or her written consent;
- (b) any congregation directly involved in and named in any proposed Basis shall be cited to appear for their interests at any meeting of the Presbytery at which a decision is to be made in terms of this Act.

Notwithstanding the provisions of this section, while it shall be the duty of the Presbytery to make every effort to secure approval of the congregations involved, the right of the Presbytery to effect adjustment in terms of this Act is hereby affirmed, subject to the consent of any minister or ministers whose rights are involved.

The negotiation and approval of a Basis of Adjustment shall be without prejudice to any outstanding appeal against the outcome of appraisal in terms of section 6 above.

- (3) If the Basis of Adjustment agreed by the Presbytery differs from the outcome agreed in the current Presbytery plan, the concurrence of the Assembly's Committee shall be required before the adjustment can be implemented, and the concurrence or otherwise of the Assembly's Committee shall be intimated to the Presbytery at its next ordinary meeting and to the congregation immediately thereafter.

14. Appeal against Adjustment Decisions

- (1) The right of appeal or dissent-and-complaint against Bases of Adjustment shall be as in section 6 above, except that intimation must be given immediately at the meeting at which the decision of Presbytery is made or at the meeting at which the concurrence or otherwise of the Assembly's Committee is formally intimated; the party making the appeal or dissent-and-complaint shall thereafter within fourteen days send intimation of it to the Principal Clerk (who in turn shall inform the Assembly's Committee).
- (2) The Appeals Committee of the Commission of Assembly shall, except as provided in section 6 above, consider at the same time appeals etc on matters of appraisal and appeals etc relating to Bases of Adjustment; in no case shall the Appeals Committee review its own decision or give judgement twice on the same question.
- (3) Act VI 1997 shall be construed in conformity with this Act.

15. Members of Presbytery

For the avoidance of doubt it is hereby declared that any person who is both a member of a cited congregation and a member or a corresponding member of the Presbytery (including an Interim Moderator) shall be entitled to participate in any discussion leading to a decision of the Presbytery in terms of this Act and, where qualified, to vote thereon.

16. **Members of Ministry Teams**

- (1) This section shall apply to individuals other than inducted parish ministers, whether part-time or whole-time, and whether ordained or not, who exercise paid leadership in the worship and pastoral life of the congregation.
 - (a) In particular, this section shall apply to Ministries Development Staff and those in locally funded ministries posts and such appointments deemed by the Presbytery to be comparable for the purposes of this section.
 - (b) For the avoidance of doubt, this section shall not apply to Church secretaries, Church officers and organists.
- (2) Appointments referred to in subsection (1) shall be made either
 - (a) under the terms of a Presbytery Plan agreed in terms of this Act or
 - (b) by a congregation or congregations with the prior approval of the Presbytery of the bounds.
- (3) In relation to appointments approved in terms of this section the Presbytery shall
 - (a) ensure that a statement of terms and conditions is agreed (in the case of an ordained minister of the Church of Scotland) or a contract of employment is entered (in the case of all other appointments);
 - (b) satisfy itself as to the status and good standing of any minister of another denomination appointed in terms of this section;
 - (c) notify the Assembly's Committee of such an appointment.
- (4) For the avoidance of doubt, no appointments to posts falling within the ambit of subsection (1) hereof shall be made after the passing of this Act by a congregation or congregations other than in accordance with subsections (2) and (3) hereof.

17. **Repeals and Amendments¹**

- (1) Act IV 1984 is hereby repealed with the exception of sections 2 to 7 inclusive which are retained for the purposes referred to in section 2 above and subject to the following amendment: in section 2 delete "Act V of 1984" and substitute "Act VIII 2003".
- (2) Acts XXII 1932 and VI 1998 are hereby repealed.
- (3) In section 5(d)(ii) of Act VI 1997 delete "Act IV 1984 (as amended by Acts III 1988; III 1989; and II 1992; VI 1994; X 1996; IV 1997 and IX 1999)" and substitute "Act VII 2003".
- (4) In section 33 of Act III 2000, delete "section 18 of Act IV 1984" and substitute "section 30(4) of Act VIII 2003".
- (5) In section 4 of Schedule 5 of Act V 2002 delete "Act IV 1984" and substitute "Act VII 2003".
- (6) In section 2 of Act VI 2002, delete "Act IV 1984 (as amended)," and add at the end of the section "or Act VII 2003"
- (7) Notwithstanding subsection (1) above, the repeal of Act IV 1984 as amended shall not affect the operation of the said Act (or Deliverances of the General Assembly in pursuance thereof) prior to the repeal of the said Act, or anything done or suffered under the said Act or Deliverances; and any rights or obligations

¹ Act IV 1984 was repealed on 19 May 2014 but its provisions then in force (sections 2 to 7) were included within section 9(2) of this Act.

acquired or incurred thereunder shall have effect as if the said Act had not been repealed.

SCHEDULE

THE PLANNING PRINCIPLES

Principles

1. The National Guidelines approved by the Assembly 2005 were the Church's first attempt to use national Census data in a consistent way across the country. Taking seriously the implications of the Third Article Declaratory, they encouraged the church to apply a uniform numerical model to developing Presbytery Plans. Since the number of posts available to each Presbytery was directly related to the population it served, Presbyteries were encouraged to try and allocate ministries to equally sized population units.

2. The Church has learnt from this first round of Presbytery Planning. While population will remain a key element in Planning, it is evident that there are other factors that need to be taken into account. Furthermore, the experience gained means that the church has the capacity to cope with a more sophisticated set of principles that will inform its Planning.

3. In 2010 the Assembly approved the report of the Special Commission on the Third Article Declaratory and reaffirmed its commitment to a territorial ministry by passing a declaratory Act. In large part, the principles which follow are drawn from the report of the Special Commission and sections of its report are quoted.

4. Mission: The primary principle

(a) Mission is the primary principle for deploying ministry. The template for our ministry is the ministry of Jesus. The Church's ministry is a participation in the ministry of Jesus Christ. Jesus' ministry was a ministry rooted in and focused on mission. It is captured in the phrase, *'As the Father has sent me, I am sending you.'* (John 20:21)

(b) The first and most important consideration for Presbyteries in shaping their Plans, therefore, is this mission imperative given by Jesus. The Special Commission² recognised this when it stated that the phrase *ordinances of religion* "must be interpreted dynamically in missional terms not statically in reactive terms. Our calling is nothing other than the challenging of the people of Scotland with a vision of God's kingdom and asking them to respond to it in faith and love." (8.7.1). It is not sufficient, therefore, for a Presbytery to ensure that every house in Scotland is in a Parish. It must endeavour to use the resources it has available to engage in the mission imperative given to us by Jesus. This will involve both existing patterns of ministry and emerging ones.

5. Secondary Principles

² ie the Special Commission on the Third Article Declaratory, which reported to the General Assembly of 2010.

The church has affirmed a number of important principles that help to explain what is meant by being a church focused on mission. Presbyteries in their Plans will therefore take account of the following:

(a) Communities: Every community of every size in every location within Scotland is part of a Church of Scotland Parish. While population should no longer be the only principle in shaping Presbytery Plans, it still remains the starting point. Our calling as a church is not primarily to resource congregations: it is mission to everyone in the land.

(b) Ecumenism: “The Commission readily acknowledges that reaching the people of Scotland is an ecumenical task and one to which the Church of Scotland contributes along with other denominations as partners in the gospel.” (8.8.1). If a particular community is well served by another denomination, there may be no need for the Presbytery to duplicate that. Where a community is equally well served by the Church of Scotland and another denomination the Presbytery should explore what local possibilities there might be for recognising each other’s ministry so that resources can be used elsewhere.

(c) The poor: The General Assembly has repeatedly affirmed that the gospel imperative is priority to the poor. At a time when resources are scarce, it is tempting to take away from the most marginal communities where churches are often very fragile and small. However pressing the reasons may be locally, this must be resisted because it makes a mockery of the gospel and the repeated commitments of the General Assembly.

(d) Whole people of God: This material’s primary aim is to assist the church in making the most effective use of paid ministries. However this takes place in the context of the ministry of the whole people of God. The Commission noted that “*the living out of the commitment of Article III may well involve an increasing number of communities where the ministry is exercised largely by the eldership and membership of the Church, albeit under the oversight of an ordained minister.*” (8.5.6) Therefore a further principle to guide Presbyteries in their deployment of ministries is how they might be used to encourage and enhance the ministry of the whole people of God.

(e) Congregations: The church has “*a commitment to maintain worshipping, witnessing and serving Christian congregations throughout Scotland.*” (9.3.5). One of the ways in which the gospel finds visible expression is in committed congregations under the power of the Holy Spirit. They both express the gospel and commend the gospel. In their Planning, Presbyteries will identify congregations that are outward looking, which engage with their communities and the wider church and consider how they might build on these strengths.

(f) Mixed economy: Whilst affirming the importance of the Parish system and recognising the importance of a sense of ‘place’ the Special Commission stated that this needs to be expressed in a variety of ways. It quotes Martyn Percy, “*For the Church to find its place in the modern world, it will have to create new spaces for new communities and different opportunities for differentiated niche groups.*” While in many communities the sense of place is best expressed in something physical and tangible, that is not universally true. The Church will need, for example, to discover how to relate to those whose belonging is primarily through networks or the virtual world.

(g) Financial responsibility: Presbytery Planning does *not* mean ensuring that congregations which make a net contribution to central funds take priority. Nonetheless a degree of financial realism is required and it is appropriate that some consideration is given to congregational financial responsibility. Some congregations are more generous than comparable ones and all congregations are expected to make a financial contribution appropriate to their means. At present one third of congregations are net contributors and two thirds are net receivers. However, per capita giving can be much higher amongst some of the poorest congregations than it is in some of the wealthiest. It makes sense for Presbyteries to consider the complex financial picture and allocate ministerial resources to congregations that take their financial stewardship seriously.

(h) Buildings: There is a connection between ministry and church buildings, although that connection is neither uniform nor universal. At a national level there is a consensus that the Church of Scotland has too many buildings, numerous buildings that are under utilised, buildings that are too large for present day needs and buildings that are in the wrong place. At a local level however, almost every church building is deemed essential. There is no simple solution to this problem. The starting point however should be mission. Presbyteries will want to consider which buildings are essential and useful for the mission they envisage.

6. These principles do not offer a simple template for Planning. It is acknowledged that no two Presbyteries will apply them in precisely the same way. What is critical, however, is that all Presbyteries begin by taking seriously the primary commitment to mission. In doing that, each Presbytery will want to consider how the secondary principles affect the way they Plan for mission. Wisdom, judgement and balance will be needed in deciding how much importance should be attached to each one.