

### **III. MANSE ADJUDICATION COMMITTEE REGULATIONS (REGS III 2013) (AS AMENDED BY REGS I 2021)**

*Edinburgh, 22 May 2013, Sess.V*

#### **A. Definitions**

1. In these Regulations:

“Appeal” means 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.

“Charge” means a congregation or linked congregations in full status or a Church Extension or New Charge congregation.

“the General Trustees” means The Church of Scotland General Trustees incorporated by the Church of Scotland (General Trustees) Order Confirmation Act 1921.

“Kirk Session” means the Kirk Session/s of the Charge, and/or the Financial Board of the Charge, being a Congregational Board, Deacons’ Court or Board of Managers.

“MAC” means the Manse Adjudication Committee referred to in section B below.

“MAC Hearing” means a hearing of the MAC to determine whether the Minister’s Own House shall be designated as the Manse of the Charge.

“Manse of the Charge” means 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.

“Minister” means 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.

“Own House” means any residential property owned solely or jointly and severally by the Minister or in which the Minister is otherwise entitled to reside.

“Parish Manse” means 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.

“Presbytery” means the Presbytery of the bounds unless the context otherwise requires.

#### **B. Manse Adjudication Committee: Powers and Constitution**

1. 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.

2. Where the Parish Manse falls within the scope of Act VII 1995 (i.e. the title to the Parish Manse is held in the name of the General Trustees or it contains a clause 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 the Faith Nurture Forum;

(b) the Chief Executive of the General Trustees and the Head of the Faith Nurture Forum (or

their Deputies) 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.

3. Where the Parish Manse does not fall within the scope of Act VII 1995, then:

(a) the MAC shall comprise four representatives of the Faith Nurture Forum, one of whom shall be appointed as Convener;

(b) the Head of the Faith Nurture Forum (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) the Head of the Faith Nurture Forum (or his or her Depute) shall act as the Clerk to the MAC.

### **C. Pre-MAC Hearing Procedures**

1. 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 Kirk Session.

2. In the event of the Kirk Session agreeing in principle to the Minister's Own House being designated as the Manse of the Charge, the Minister and the Kirk Session shall make a joint submission to the Presbytery or, where the Kirk Session does not agree to the Minister's request, the Minister alone may make a submission to the Presbytery.

3. The Presbytery shall meet separately with the Minister and the Kirk Session. The Presbytery shall, after such further investigation as it deems appropriate, and on the basis of the factors set out in Part 1 of the Schedule, and taking account of the reports referred to in section C4 below, 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.

4. 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.

5. 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 Kirk Session, 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 Kirk Session, 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.

#### **D. MAC Hearing and MAC Decision**

1. 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.
2. 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 Part 1 of the Schedule have been appropriately addressed, taking also into consideration the independent reports referred to in section C4 above.
3. The MAC Hearing shall proceed in accordance with the Rules of Procedure set out in Part 2 of the Schedule.
4. 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.

#### **E. Post-MAC Hearing Procedure**

1. The Clerk to the MAC shall forthwith notify the Minister, Kirk Session 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.
2. 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.
3. 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.
4. 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 Kirk Session and the Presbytery.
5. The Ministries Appeal Panel shall then determine the matter in accordance with the terms of the Ministries Appeal Panel Act (Act VI 2007).
6. 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) that shall be deemed to be approval 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 Kirk Session;
  - (b) the Solicitor of the Church shall act on behalf of the Kirk Session in the preparation of a Lease Agreement between the Minister and the Kirk Session 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 the Act anent Care of Ecclesiastical Properties 2007.
7. 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.

8. 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.

## **F. Miscellaneous**

1. These Regulations shall not apply to the situation where a husband and wife are both 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.

## **SCHEDULE**

### **PART 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.

## **PART 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 Kirk Session 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 Kirk Session 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 Part 1 of the Schedule, and the independent reports referred to in section C4 above.
6. The MAC Hearing may take place by audio and/or video conference call or other appropriate medium.