

V. REGULATIONS ANENT THE APPLICATION OF STIPEND AND FABRIC ENDOWMENTS HELD BY THE CHURCH OF SCOTLAND GENERAL TRUSTEES (AS AMENDED BY REGULATIONS III 1996 AND IV 2003)¹

Edinburgh May 26, 1995. Sess.8.

(A) *GENERAL*

1. In these Regulations:-

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

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

“the Stipend Fund” means the Consolidated Stipend Fund formed in terms of the Regulations anent a Consolidated Stipend Endowment Fund 1981, as amended by the Amendments thereto, 1983 and 1995.

“the Fabric Fund” means the Consolidated Fabric Fund formed in terms of the Regulations of the Consolidated Fabric Fund, 1995.

“the Committee” means the appropriate committee of the Ministries Council.

“the Financial Board” means the Congregational Board or other body having charge of temporal affairs of a congregation.

“allocations” or “appropriations” means allocations of stipend or fabric monies, as the case may be, and “reallocations” shall be construed accordingly.

“the stipend” of a congregation or of a charge means the cost of providing a minister and other members of the ministry team as defined in Section 16 of Act VII 2003 for that congregation or charge.

2. The benefiting congregation in respect of a stipend or fabric endowment will be determined by the General Trustees subject to the whole terms hereof 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.
3. 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 the Committee 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 these Regulations, 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) petition the General Assembly for review of such decision or determination in terms of the procedure set out in section 2 of Act VII, 1995 anent Powers delegated to The Church of Scotland General Trustees.
4. In implementing the powers conferred upon them under these Regulations, the General Trustees shall have regard to the following principles:
 - (1) Prior to the coming into force of these Regulations, the law and practice of the Church has been that certain assets, such as the proceeds of sales and other transactions involving glebe subjects, superiorities, ground annuals and the like have been treated as being available for stipend endowment; and other assets, such as the proceeds of sales and other transactions involving ecclesiastical and functional buildings and associated land and the like have been treated as being available for fabric endowment. That practice will generally continue but henceforth subject to the principles laid down in sub-sections (2) and (3) of this Regulation.
 - (2) 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, any surplus remaining being allocated to the Minimum Stipend Fund.

¹ Guidelines for Reallocation of Endowments, as approved by the General Assembly of 1995 and set out in Appendix 7 to the Report of the General Trustees that year, are available here:

http://www.churchofscotland.org.uk/_data/assets/pdf_file/0007/3022/reallocation_endowments.pdf
or in hard copy by application to the Secretary to the General Trustees.

- (3) 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 any surplus remaining being, 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.

(B) *STIPEND ENDOWMENTS*

1. Subject to the terms hereof, the whole allocations of stipend heretofore made by the Committee in terms of its Powers under the Act XXVII, 1953 anent Powers delegated to the Ministries Council will continue and be deemed to be allocations made under these Regulations for the relative congregations, irrespective of the origin or location of the subject producing the endowments.
2. Where income has, prior to the coming into force of these Regulations, been allocated by the Committee to a congregation from an endowment situated within the ecclesiastical parish of another congregation or with which another congregation is or was connected, the Committee will, in circumstances which it deems to be exceptional, but only at or before the first vacancy in the benefiting charge after such coming into force, have power to reallocate the income on the endowment.
3. Details of all cases in which shares in the Stipend Fund are unallocated will be referred to the Presbytery which shall give its views to the General Trustees on a possible reallocation in terms of Guidelines as set from time to time by the General Trustees and approved by the General Assembly.
4. 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 the Committee, Presbytery shall give its views to the General Trustees on a possible reallocation in terms of the said Guidelines.
5. 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 obtain 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 the Committee 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 (B) 4 above or (ii) the General Trustees or the Committee so require.
6. 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 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 Fabric Fund without the specific concurrence of the Committee or the General Assembly.
7. 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 behoof of the congregation or to the Minimum Stipend Fund subject in the former case to the concurrence of the Committee.
8. On the dissolution of a congregation, the endowments for stipend held for its behoof will, unless there is agreement by both the General Trustees and the Committee to the contrary or either body refers the matter to the General Assembly, be allocated to the Minimum Stipend Fund.

(C) *FABRIC ENDOWMENTS*

1. (1) Subject to the terms hereof the whole allocations made by the General Assembly or their Commission or by the General Trustees in terms of Act XIV 1979 anent Powers delegated to The Church of Scotland General Trustees (as amended) in respect of funds heretofore held in the records of the Consolidated Loan Fund will continue and be deemed to be allocations made under these Regulations to the extent that the corresponding shares in the

Fabric Fund and sums in the relative revenue accounts will be held by the General Trustees for behoof of the same congregations or interests of Church as previously.

- (2) The Acts, deliverances, determinations and other instruments making such allocations will, however, be otherwise revoked and the said shares and funds will be held and applied by the General Trustees in accordance with the provisions for the use of monies in the Fabric Fund as set out by the General Trustees from time to time and approved by the General Assembly.
 - (3) Where, however, the General Trustees are of the view that it would be inappropriate to include particular funds in the operation of section (C) 1(2) hereof, because of the purposes for which they are held at the time when these Regulations come into force, they will have the power to disapply the operation of that section in such cases. Such funds will continue to be held for the purposes of the Acts, deliverances, determinations or other instruments governing their application subject always to the terms of Act VII, 1995 anent Powers delegated to The Church of Scotland General Trustees.
2. Details of all cases in which the value of the assets in the Fabric Fund held for behoof 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 Guidelines as set from time to time by the General Trustees and approved by the General Assembly.
 3. When new capital becomes available Presbytery shall give its views to the General Trustees on a possible reallocation if (i) the following circumstances obtain namely (a) the value of the new capital exceeds such amount as may be determined from time to time by the General Trustees 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 such amount as may be determined in relation to section (C) 2 above or (ii) the General Trustees or the Committee so require.
 4. 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 *ex proprio motu* to give its views on a possible reallocation in any case.
 5. 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.
 6. On the dissolution of a Congregation the proceeds of sale of relevant or redundant properties, either vested in the General Trustees or vested in other trustees but under the control of the General Assembly, will, 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 the Committee to the contrary or either body refers the matter to the General Assembly, be allocated to the Central Fabric Fund.