XVI.  PRECENTOR OR ORGANIST ACT (ACT XVI 1931)
Edinburgh, 26th May 1931, Session 12.

The General Assembly declare and enact as follows:-

1. The appointment of the Precentor or Organist shall be made by the Kirk Session, which must be satisfied as to the Christian character of any applicant before he or she be recognised as eligible. A precise record of terms of appointment shall be entered in the Minutes of the Kirk Session.

2. The salary of the Precentor or Organist shall be determined by the Deacons’ Court, Committee of Management, or Congregational Board where such body exists. In all other cases it shall be fixed by the Kirk Session.

3. The Kirk Session shall be at liberty to consult the Deacons’ Court, Committee of Management, or Congregational Board with regard to the terms of appointment of the person to be appointed.

4. In the conduct of public worship the Precentor or Organist shall be under the direction and control of the minister.
XX. DEATH OF A MINISTER ACT (ACT XX 1931)

Edinburgh, 26th May 1931, Session 12.

The General Assembly declare and enact as follows:-

Upon the occasion of the death of a minister, the Presbytery of the bounds shall meet at the church of the minister deceased, immediately after the funeral and without formal summons, to appoint an Interim Moderator and to transact any necessary business connected with the vacancy, unless otherwise intimation has been duly made to members by advertisement or by individual notice.
The General Assembly with consent of a majority of Presbyteries enact and ordain as follows:-

ELDERS

1. The Kirk Session shall determine the number of elders required for the oversight of the congregation, and the time when a new election is to take place. The Kirk Session shall determine the mode of election, which may be either by the choice of the Kirk Session itself as provided for in Section 2, or by the direct vote of the members of the congregation as provided for in Sections 3 and 4.

Election by Resolution of Kirk Session

2. The Kirk Session itself may elect as elders, when an addition to the number of elders is considered necessary, such persons as are deemed suitable for the office who shall be members of the congregation in full communion and shall have attained the age of eighteen years. In this case the Kirk Session shall confer with those who are so chosen, and upon obtaining their consent shall proceed to their ordination and admission in terms of Sections 7, 8 and 9.

Election by Vote of Congregation

3. When the Kirk Session has resolved that it is expedient to have an election of elders, and has fixed the number to be elected, and the date of the election, and has resolved that the method of election be by vote of the members of the congregation, due intimation thereof shall be made at this time of public worship, on the two successive Sundays preceding the date of election. It is desirable to give the congregation even earlier intimation of an intended election so that the members may have time to inquire regarding persons suitable for the office, who shall be members of the congregation in full communion and shall have attained the age of eighteen years.

4. The election of elders by vote of the congregation may be made in either of the two following modes, viz: (a) At a congregational meeting held in the presence of the Kirk Session for the purpose of nominating persons for the office, to be voted upon, if necessary, as the meeting may determine. (b) By signed lists. The Kirk Session shall determine in which of these ways the election shall be made; and give directions to the members accordingly when intimating that the election is to be made.

(a) When mode (a) is followed, intimation shall be made on at least two Sundays immediately preceding the meeting, that a congregational meeting will be held for the purpose of nominating persons for the office of eldership; with certification that if the number nominated does not exceed the number required, those nominated will be declared to be elected, subject to the judgement of the Kirk Session (see Section 5), and that if the number nominated exceeds the number required, a vote of the congregation on those nominated will be taken by standing up or by voting papers, as the meeting may determine. The Moderator of the Kirk Session or a minister of the church authorised by him or her in writing shall preside and open the meeting with devotional exercises. The names proposed and seconded shall be taken down. After full opportunity has been given for proposing names, the Moderator shall ascertain whether any additional names are to be proposed, and
if none are proposed the leet shall be declared closed. If the number on the leet does not exceed the number of elders required, the Moderator thereupon shall declare them elected to the office of the eldership, subject to the judgement of the Kirk Session. (See Section 5). If the number on the leet exceeds the number required, the Moderator shall engage in prayer for the divine guidance in the election; and the meeting shall decide whether the vote will be taken by standing up, or by voting papers issued to the members of the congregation. If it is agreed to vote by standing up, the names shall be submitted successively to the meeting in the order in which they have been nominated, and shall be voted upon by the meeting. No member shall vote for more than the number for which the congregation is asked by the Kirk Session to vote. Those, to the number required, having the highest number of votes shall be declared to be elected, subject to the judgement of the Kirk Session (See Section 5.) If the meeting resolve that voting papers be used, the meeting shall be closed. The Kirk Session thereafter shall cause voting papers to be prepared and distributed to the members of the congregation, containing the names of those on the leet arranged in alphabetical order, together with full instructions as to marking, signing, and returning the voting papers on or before a time appointed by the Kirk Session. The voting papers shall be examined, and the votes shall be counted by the Kirk Session; and those, to the number required, who have the largest number of votes shall be declared to be elected, subject to the judgement of the Kirk Session. (See Section 5.)

(b) Where mode (b) is followed, the Kirk Session by intimation made from the pulpit shall request the members to give in lists containing the names, to a number not exceeding that which the congregation is asked to vote for, of members of the congregation in full communion whom they desire to be elected; each list being duly signed by the member or members voting by it, and being given in at the place and by the time fixed by the Kirk Session. The lists shall be examined, and the votes counted by the Kirk Session; and those, to the number required, who have the largest number of votes shall be declared to be elected, subject to the judgement of the Kirk Session. (See Section 5.) The Kirk Session, when intimating the number of elders required, may call upon the congregation to vote for a number as nearly as may be one-half more than the number required; as six when four, or eight when five are required. If this is done, those to the number required who have the highest number of votes, whatever mode of voting is followed, shall be held to be elected; but should the election of any of them not be sustained, or should any decline to accept office, the next highest shall be held to be elected, provided the session judges that a sufficient number of votes has been given for him or her; and so on, if necessary, until the whole number for which the congregation has been asked to vote is exhausted. Or should the Session judge it advisable, it may, when the result of the vote is ascertained, at once declare to be elected those for whom most votes are given, up to the number for which the congregation was asked to vote. (For Form of Intimation see Schedule, A.

5. The Kirk Session shall judge of the qualifications of those elected before sustaining their election. As part of this process, the Kirk Session shall require all elders-elect to confirm that they have not previously been ordained as an elder in the Church of Scotland and then resigned that status or had that status judicially removed. No one shall be admitted
as a ruling elder if the Kirk Session be not satisfied with his or her qualifications, unless
its judgement be reversed by a higher Court. When the Kirk Session is satisfied as to
the fitness of the persons elected, and has sustained their election, it shall confer with
them in regard to their acceptance of office; and on obtaining their acceptance it shall
appoint the time of their ordination or admission, and shall proceed in terms of Sections
7, 8 and 9.

Provision for Fixed Term Membership of Kirk Session
6. Notwithstanding the fact that an elder is ordained for life, a Kirk Session may determine,
in advance, that the admission of any particular elder to membership of the Kirk Session
should be for a prescribed fixed term period. Such fixed term membership may
subsequently be extended by agreement of the Kirk Session and with the concurrence
of the individual elder concerned. In the absence of such agreed extension, on the
expiry of the fixed term period any such elder shall cease to be a member of the Kirk
Session, but shall remain eligible for readmission, if so invited by the Kirk Session, at a
future date.

Admission to Office
7. The Session Clerk shall prepare an edict to be read from the pulpit on two Sundays
giving intimation that if any person have objection to the life or doctrine of any of those
proposed to be ordained or admitted, such objection shall be given in to the Session at
a meeting duly intimated in the edict, to be held not less than seven free days after the
edict is first served; with certification that if no objection be given in and substantiated at
the time and place of which notice is given, the Kirk Session will proceed with the
ordination or admission at the time appointed for it. (For Form of Edict see Schedule, C
and D.)

8. At the time and place intimated in the edict the Kirk Session shall meet to receive any
objection which may be offered. The edict shall be returned, certified as duly served.
Any objection made shall refer to the life or doctrine of the elder-elect. If any objection
is made, and forthwith substantiated, or if the Kirk Session judge that further inquiry is
necessary, the Kirk Session shall not proceed to the ordination or admission of the
person objected to until the objection is disposed of. Objections which in the judgment
of the Kirk Session are frivolous or unsupported by evidence shall be set aside, and the
ordination or admission proceeded with.

9. The ordination and admission to office shall take place in presence of the congregation,
at a diet of public worship. The Kirk Session having been constituted, the Moderator
shall narrate the steps that have been taken, and put the prescribed question. On
receiving satisfactory answers, and after the elders-elect have signed the Formula, the
Moderator shall admit to office in the congregation any who have already been ordained
to the eldership, and ordain by prayer and admit to the office of ruling elder in the
congregation those not previously ordained, commending them to the grace of God for
the work to which they are appointed; the right hand of fellowship shall be given by the
Moderator and other members of Kirk Session to the newly admitted elders, and the
service concluded with suitable exhortations to them and to the congregation.
Thereafter the newly ordained and admitted elders have their names added to the roll,
and take their seats in the Kirk Session. (For Question and Formula see Schedule, E
and G.)
DEACONS
10. The Kirk Session shall determine when it is expedient to have an election of deacons, and what number is required. The Kirk Session shall exercise precisely the same functions with reference to the election and ordination or admission of deacons as in the case of elders in accordance with the procedure outlined in Sections 3-9. It is not desirable that a vote for election of elders and deacons be taken at the same time. (For Question and Formula see Schedule, F and G.)

11. Minutes of all proceedings in connection with the election, ordination, and admission of elders and deacons shall be recorded in the Minute-Book of the Kirk Session.

12. In place of the above method of electing deacons, congregations may resolve that the office of deacon shall be held by persons, being male or female, members of the congregation in full communion and eighteen years of age, who shall, without ordination, be appointed thereto for a term of years. Such terminable appointment to the office of deacon shall be for a period of three years, and the regulations governing the election and appointment of managers and members of a congregational board shall apply to the election and appointment of deacons after this method. The names of deacons thus elected who accept office shall be read over to the congregation on the first convenient Sunday after their election, and the minister shall commend them in prayer to the grace of God for the work to which they have been appointed.
Resolutions involving changes in the constitution of a Deacons’ Court shall be adopted either at a congregational meeting duly appointed by the Kirk Session and held for that express purpose, of which full intimation has been previously given on at least two Sundays; or by voting papers, the issue of which shall be similarly authorised and intimated by the Kirk Session. (See Schedule B.)
When a proposal for changing the method of administering its temporal affairs is before a congregation, no step shall be taken by the Kirk Session towards the election of persons to any such office until the proposal for change has been disposed of. In the event of a congregation making the above change as regards the persons eligible for the deaconship and the tenure of their office, such change shall be duly notified to the Presbytery.

Election of Representative Elder to Presbytery and Synod
N.B. This Section has been superseded by Act III, 1992, Sections 18-20 and Act V, 1992 and Act VI, 1992.

SCHEDULE

A. INTIMATION OF ELECTION OF ELDERS
   (a) At a Congregational Meeting
       The Kirk Session has decided that the number of elders in this congregation shall be increased by (number), and the new elders shall be nominated at a meeting of the congregation. Therefore a meeting of this congregation will be held in (place) on (date) at (time) for this purpose. If the number nominated does not exceed (the same number as above),
those nominated will be declared to be elected, subject to the approval of the Kirk Session. If the number nominated exceeds (the same number as above), a vote will be taken by standing up or by voting papers as the meeting may determine. This intimation is the formal legal notice for this process.

By order of the Kirk Session

............... Session Clerk

(b) By Signed Lists
The Kirk Session has decided that the number of elders in this congregation shall be increased by (number), and the method of election shall be by means of signed lists. Members are therefore requested to hand in lists, signed by the members giving them in. Such lists should contain the names of members of the congregation suitable for the office of eldership, and each list should not exceed (same number as above) names in all (there should follow details of the arrangements for the receiving of lists, including a time limit).

By order of the Kirk Session

............... Session Clerk

Note: Amend wording appropriately where any of the elders are to have fixed term membership of the Kirk Session in terms of section 6.

B. INTIMATIONS FOR THE ELECTIONS OF DEACONS
(A) Life-Appointment. The same forms shall be used, mutatis mutandis, as for election of elders.
(B) Appointment for a term of years.
(a) A meeting of this congregation will be held (place) on (date) at (time) to consider whether the office of deacon in this congregation shall be held by communicant members of the congregation over 18 years of age, who without ordination will be set apart to office for three years.
(b) The Kirk Session has decided to take a vote of the congregation on the question whether the office of deacon in this congregation shall be held by communicant members of the congregation over eighteen years of age, who without ordination will be set apart to office for three years. The vote will be by voting papers and (there follow the arrangements for the issuing and receiving of voting papers, including a time limit).

By order of the Kirk Session

............... Session Clerk

Note. – When deacons are elected by the latter manner, the election may take place either at the Annual Business Meeting or by means of voting papers in accordance with a plan which the congregation shall appoint.
C. EDICT FOR ORDINATION AND ADMISSION OF ELDERS

(List the names in alphabetical order using the normal first name, not initials), members of this congregation have been elected to be ruling elders (and the Kirk Session has judged them to be qualified for that office and has sustained their election)*; (list the names) have accepted office as elders: if anyone has any objections why any of these members should not be ordained (or if any of those elected are already ordained elders) admitted) to office, they state their objection at the meeting of the Kirk Session in (place) on (date) at (time); if no relevant objection regarding life or doctrine is made and substantiated, the Kirk Session will proceed to the ordination (or ordination and admission).

By order of the Kirk Session

................ Session Clerk

*Omit words in brackets when election is made in terms of Regulation 2

Notes. – (1) The same form is used, mutatis mutandis, when deacons are to be ordained.
(2) Amend wording appropriately where any of the elders are to have fixed term membership of the Kirk Session in terms of section 6.

D. ATTESTATION OF EDICT BEING SERVED

Church, the day of 20

The above edict was this day duly served by me, in the face of the congregation.

............... Minister (or, preacher)

E. PREAMBLE, QUESTION AND FORMULA FOR USE AT ORDINATION AND ADMISSION OF ELDERS

Preamble

The narrative shall be read and, the elders-elect having taken their places before the Session, the Moderator shall declare as follows:-

In the name of the Lord Jesus Christ, the King and Head of the Church, Who, being ascended on high, has given gifts to God’s people for the edifying of the body of Christ, we are met here as a Kirk Session to ordain A, B, C, D, etc., to the eldership, and to admit E, F, G, H, etc., into that office in this congregation.

In this act of (ordination and/or) Admission the Church of Scotland, as part of the Holy Catholic or Universal Church worshipping One God – Father, Son and Holy Spirit – affirms anew its belief in the Gospel of the sovereign grace and love of God, wherein through Jesus Christ, His only Son, our Lord, Incarnate, Crucified, and Risen, He freely offers to all people, upon repentance and faith, the forgiveness of sins, renewal by the Holy Spirit, and eternal life, and calls them to labour in the fellowship of faith for the advancement of the Kingdom of God throughout the world.

The Church of Scotland acknowledges the Word of God, which is contained in the Scriptures of the Old and New Testaments, to be the supreme rule of faith and life.

The Church of Scotland holds as its subordinate standard the Westminster Confession of Faith, recognising liberty of opinion on such points of doctrine as do not enter into the
substance of the Faith, and claiming the right, in dependence on the promised guidance of the Holy Spirit, to formulate, interpret, or modify its subordinate standards: always in agreement with the Word of God and the fundamental doctrines of the Christian Faith contained in the said Confession – of which agreement the Church itself shall be sole judge.

Then the Moderator, addressing the elders-elect, who are to stand and make answer to the question put to them, shall say:--

In view of this Declaration you are now required to answer this question:--
Do you believe the fundamental doctrines of the Christian faith; do you promise to seek the unity and peace of this Church; to uphold the doctrine, worship, government, and discipline thereof; and to take your due part in the administration of its affairs?

The question having been answered to the satisfaction of the Session and the Formula having been signed by the elders-elect, the Moderator, by prayer, shall ordain them to the office of the eldership.

Thereafter the Moderator shall add these words:--
(I now declare you to have been ordained to the office of the eldership, and) in the name of the Lord Jesus Christ, the King and Head of the Church, I admit you to office in this congregation. In token thereof we give you the right hand of fellowship.

Note. – The words in brackets shall be omitted when the elders-elect have been formerly ordained.

F. ORDIINATION OF DEACONS
The same preamble shall be read, mutatis mutandis, and the same question shall be put to deacons as to elders.

G. FORMULA TO BE SIGNED BY ALL OFFICE-BEARERS
I believe the fundamental doctrines of the Christian faith contained in the Confession of Faith of this Church.
I acknowledge the Presbyterian government of this Church to be agreeable to the Word of God, and promise that I will submit thereto and concur therewith.
I promise to observe the order of worship and the administration of all public ordinances as the same are or may be allowed in this Church.
XI. LICENSING OF PROBATIONERS ACT (ACT XI 1932)

Edinburgh, 26th May 1932, Session 5

The General Assembly with consent of a majority of Presbyteries enact and ordain that the Preamble, Questions, and Formula for use at the Licensing of Probationers shall be as follows:

PREAMBLE

The Candidates for Licence having taken their place before the Presbytery, the Moderator shall declare as follows:

In the name of the Lord Jesus Christ, the King and Head of the Church, Who, being ascended on high, hath given gifts unto men⁠¹ for the edifying of the body of Christ, we are met here as a Presbytery to license M. (and N.) as preachers of the Gospel and probationers for the Holy Ministry.

In this act the Church of Scotland, as part of the Holy Catholic or Universal Church worshipping One God – Father, Son and Holy Spirit – affirms anew its belief in the Gospel of the sovereign grace and love of God, wherein through Jesus Christ, His only Son, our Lord, Incarnate, Crucified, and Risen, He freely offers to all men,⁠² upon repentance and faith, the forgiveness of sins, renewal by the Holy Spirit, and eternal life, and calls them to labour in the fellowship of faith for the advancement of the Kingdom of God throughout the world.

The Church of Scotland acknowledges the Word of God, which is contained in the Scriptures of the Old and New Testaments, to be the supreme rule of faith and life.

The Church of Scotland holds as its subordinate standard the Westminster Confession of Faith, recognising liberty of opinion on such points of doctrine as do not enter into the substance of the Faith, and claiming the right, in dependence on the promised guidance of the Holy Spirit, to formulate, interpret, or modify its subordinate standards: always in agreement with the Word of God and the fundamental doctrines of the Christian Faith contained in the said Confession – of which agreement the Church itself shall be sole judge.

Then the Moderator, addressing the Candidate or Candidates, who are to stand and make answer to the questions put to them, shall say:

In view of this Declaration you are now required to answer these questions:

1. Do you believe in One God – Father, Son, and Holy Spirit; and do you confess anew the Lord Jesus Christ as your Saviour and Lord?
2. Do you believe the Word of God, which is contained in the Scriptures of the Old and New Testaments, to be the supreme rule of faith and life?
3. Do you believe the fundamental doctrines of the Christian faith contained in the Confession of Faith of this Church?
4. Do you acknowledge the Presbyterian government of this Church to be agreeable to the Word of God; and do you promise to be subject in the Lord to this Presbytery, or any Presbytery within whose bounds you may reside, and to the superior Courts of the Church?
5. Do you promise to seek the unity and peace of this Church; to uphold the doctrine, worship, government, and discipline thereof; and to cherish a spirit of brotherhood towards all the followers of the Lord²³
6. Are not zeal for the glory of God, love to the Lord Jesus Christ, and a desire for the salvation of men,⁴ so far as you know your own heart, your great motives and chief inducements to enter into the office of the Holy Ministry?
7. Do you engage in the strength of the Lord Jesus Christ to live a godly and circumspect life; and faithfully, diligently, and cheerfully to discharge the duties of your ministry, seeking in all things the advancement of the Kingdom of God?

The questions having been answered to the satisfaction of the Presbytery, and the Formula having been signed, the Moderator shall engage in prayer.

Thereafter the Moderator shall say:--

In the name of the Lord Jesus Christ, the King and Head of the Church, and by the authority of this Presbytery, we do now license you to preach the Gospel of the grace of God and to exercise your gifts as a Probationer (or Probationers) for the Holy Ministry.

FORMULA
I believe the fundamental doctrines of the Christian faith contained in the Confession of Faith of this Church.
I acknowledge the Presbyterian government of this Church to be agreeable to the Word of God, and promise that I will submit thereto and concur therewith.
I promise to observe the order of worship and the administration of all public ordinances as the same are or may be allowed in this Church.

Note. – The following alternative wording has been approved by the General Assembly (1991,1):--
1. substitute “has given gifts to God’s people”
2. substitute “He freely offers to all people”
3. substitute “to cherish a spirit of love towards all your brothers and sisters in the Lord”
4. substitute “a desire for the salvation of all people”
The General Assembly declare and enact as follows:

1. Congregational Meetings shall be held from time to time, as may be found necessary, by order of the Kirk Session, the Presbytery of the bounds, or a superior Court, or, in the case of meetings specified in Section 4 of this Act, by authority of the Deacons’ Court, Committee of Management, or Congregational Board, as the case may be.

2. The Interim Moderator in a vacancy shall have power, in virtue of his or her office, to summon meetings of the congregation in terms of the Regulations for the election, settlement, and translation of ministers.

3. When a Presbytery appoints a committee to confer with a congregation on any matter, the Convener of such committee shall have power to summon a meeting of the congregation in name of the Presbytery to deal with the remit received.

4. (a) In cases where the financial affairs of the congregation are administered by a Deacons’ Court or a Congregational Board appointed according to the forms of the former United Free Church, the annual business meeting of the congregation shall be called by the Deacons’ Court or by the Congregational Board, by the 30th day of June in each year following the close of the financial year.

   (b) In cases where the financial affairs of the congregation are administered by a Committee of Management, ordinary meetings for financial purposes, or in connection with the Church property, as may be provided for in the Constitution of the Congregation, shall be called by the Committee of Management, by the 30th day of June in each year following the close of the financial year. Special meetings for similar purposes shall be called as may be found necessary, by the Committee of Management with the concurrence of the Kirk Session.

5. At all Congregational Meetings, with the exceptions specified hereafter in this section, the Moderator of Kirk Session shall preside, or a minister of the Church authorised by him or her in writing or appointed by the Presbytery or a superior Court. In Charges where the Deed of Constitution for Quoad Sacra Parishes has been adopted, in the absence of the Moderator of Kirk Session or his or her deputy, a chairman shall be appointed by the meeting. In cases where the meeting has been called by the Deacons’ Court, any office-bearer may be called on to preside in the absence of the Moderator of Kirk Session. In the case of Charges where there is a Committee of Management, the Preses of the Managers shall preside at ordinary financial meetings of the congregation, and in his or her absence a chairman shall be appointed by the meeting; at special financial meetings, the meeting shall elect its own chairman.

6. All Congregational Meetings, with the exception of those specified in Section 7 of this Act, shall be intimated from the pulpit on the two Sundays immediately preceding the meeting, and the notice summoning the meeting shall be attested by the officiating minister or preacher as having been duly made by him or her.
7. In the following cases, intimation of a Congregational Meeting on one Sunday shall suffice:
   (a) The annual business meeting of Charges where the finances are under the control of a Deacons’ Court, a Congregational Board constituted under the forms of the United Free Church, or a Committee of Management.
   (b) Meetings held in connection with proposals for union and readjustment of agencies, unless a basis of union is to be submitted for approval, in which case the meeting shall be intimated on two Sundays.

8. It shall not be competent to raise any question in regard to the sufficiency of the notice of a Congregational Meeting, unless a petition specifying clearly the nature of the objection be sent to the Moderator of Kirk Session (or Moderator of Presbytery, if the meeting be held by order of the Presbytery or a higher Court) within eight days after the meeting has been held.

9. Except in the case of meetings specified below, the Session Clerk shall act as Clerk to Congregational Meetings. The Minutes shall be submitted in draft at the end of the meeting and shall thereafter be engrossed in the Records of the Kirk Session. In the absence of the Session Clerk a Clerk shall be appointed for the meeting. In Charges where the Deed of Constitution for Quoad Sacra Parishes has been adopted, the Clerk to the Congregational Board shall act as Clerk at the statutory annual meeting of the congregation, and the Minute shall be engrossed in the Minute-Book of the Congregational Board. Where there is a Deacons’ Court, a Congregational Board constituted according to the forms of the United Free Church, or a Committee of Management, the Clerk of the Deacons’ Court, Congregational Board, or Committee of Management shall act as Clerk at Congregational Meetings for financial purposes, and the Minute shall be engrossed in the records of the Deacons’ Court, Congregational Board, or Committee of Management, as the case may be.

10. In Charges where provisions are made either in the title-deeds of the property, or in a constitution approved by the Presbytery, with regard to the holding of Congregational Meetings, which differ from what is set forth in Sections 1 to 9 of this Act, the provisions of such title-deeds or constitution shall remain in force to the exclusion of this Act in so far as it differs from these provisions, unless and until these provisions shall be competently altered.
XXVI. PROCEEDS OF SALES (UNUSED PROPERTIES) ACT (ACT XXVI 1933)
Edinburgh, 23rd May 1933, Session 2.

The General Assembly declare and enact as follows:-

The General Assembly enjoin Presbyteries in cases in which a congregation is being dissolved or where a union with another congregation is being effected to take steps (1) to secure that the importance of applying the funds arising therefrom or from the sale or sales of any property of the congregation concerned consequent upon such dissolution or union (where this shall be permissible under the terms of the title to the congregational properties) towards church extension purposes in neighbouring districts, or for the provision of church hall accommodation for neighbouring congregations which are not fully equipped, shall be timeously and appropriately represented to the congregation concerned – with a view to their adopting a plan of allocation towards such purposes of the sums at their disposal which can be approved by the Presbytery and the General Assembly, and (2) to remind all congregations that, in the possession of their property, they are stewards of the liberality of former members of the church, and are in honour bound, in their disposal of the proceeds of property no longer necessary for purely congregational purposes, to keep in view the general needs of the church, and to consider whether they will not best give effect to the intentions of the donors through whose generosity the property was originally acquired, by supporting plans for the church extension or for the provision of manse or hall accommodation such as aforesaid which have been approved of by the Presbytery.
VIII. OFFICE OF DEACON ACT (ACT VIII 1935)

Edinburgh, 22nd May 1935, Session 3

The General Assembly, with consent of a majority of Presbyteries, enact and ordain the office of Deacon may henceforth be held by women members of the Church on the same terms as men.

* (of a Deacons’ Court)
VIII. TRIALS FOR LICENCE ACT (ACT VIII 1936)
Edinburgh, 27th May 1936, Session 12

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

The Act of Licensing shall take place in public, and preferably in Church, not less than seven days after the trials have been sustained.
VIII. H.M. FORCES (KIRK SESSIONS) ACT (ACT VIII 1952)

Edinburgh, 21st May 1952, Session 3.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain as follows, notwithstanding any other enactment to the contrary:–

1. Where members of the Church of Scotland serving in any embodied unit of Her Majesty’s Forces desire authority for the constitution of a Services Kirk Session in their unit, they may apply to the Committee on Chaplains to Her Majesty’s Forces requesting the Committee to take steps to that effect.

2. On receiving any such application, the Committee shall first satisfy itself –
   (i) that the unit in question comprises a sufficient number of persons who are or may desire to become members of the Church of Scotland;
   (ii) that a Services Kirk Session, if constituted in that unit, would have a reasonable prospect of continuing in existence for a material period; and
   (iii) that the application has the approval of the Church of Scotland chaplain concerned and of the commanding officer of the unit;

and, if satisfied of these matters, may take steps to authorise the constitution of a Services Kirk Session in the unit.

3. A Services Kirk Session shall consist of the Church of Scotland chaplain of the unit, failing which, of any other Church of Scotland chaplain, as Moderator, and also of not less than two duly ordained elders of the Church of Scotland who are members of the unit. Nothing herein contained shall prevent a Church of Scotland chaplain from acting as Moderator of more than one Services Kirk Session.

4. Notwithstanding the foregoing provisions, for the purpose of enabling a Services Kirk Session to be constituted in any unit of Her Majesty’s Forces where there is available no, or only one, duly ordained elder of the Church of Scotland, the Committee on Chaplains to Her Majesty’s Forces shall appoint as assessors not less than three duly ordained elders, and any of these elders may act along with the Church of Scotland chaplain of the unit, or failing which, any other Church of Scotland chaplain, and any elder in the unit, as an interim Services Kirk Session for that unit to enable the election, ordination, and admission to the eldership of a sufficient number of members of the Church of Scotland in the unit to constitute a Services Kirk Session as provided for by Section 3; and, in any such case, the ordination and admission of the said elders shall be conducted by such chaplain with any available elders in the unit, after approval of the election has been given by the said assessors as well as by the said chaplain and any available elders in the unit.

5. Before any Services Kirk Session, or interim Services Kirk Session, is constituted, it shall first be authorised by the Committee on Chaplains to Her Majesty’s Forces.

6. A Services Kirk Session may itself elect further elders when an addition to its numbers is considered necessary. Any elder so elected shall be a member of the Church of Scotland and also a member of the unit.
7. The ordination and admission of an elder to office in Services Kirk Session shall take place at a diet of public worship.

8. Intimation by edict in common form of the election of any person as elder by Services Kirk Session or Interim Services Kirk Session shall not be necessary, but it shall be the duty of any chaplain, before ordaining or admitting any such person to office as elder in such Kirk Session, to take all steps reasonable and practicable in the circumstances to be satisfied that no objection exists to such person’s life or doctrine, and, in discharging this duty, the chaplain shall consult with any available elder.

9. Each Services Kirk Session shall be associated with a Presbytery of the Church of Scotland. Where the unit has a depot in Scotland the Services Kirk Session of that unit may elect to be placed on the roll of the Presbytery of the bounds. In other cases, the Services Kirk Session shall be placed on the roll of the Presbytery of Edinburgh.

10. The placing of a Services Kirk Session on the roll of a particular Presbytery shall not affect the existing membership of Presbytery of any chaplain to Her Majesty’s Forces.

11. The Committee on Chaplains to Her Majesty’s Forces shall keep a Register of Services Kirk Sessions authorised by the Committee.

12. The Committee on Chaplains to Her Majesty’s Forces shall report each year to the General Assembly on the state of its Register of Services Kirk Sessions.

Edinburgh, 26th May 1959, Session 12.

Notwithstanding anything contained in the Act of 27th August 1647 approving of the Confession of Faith or in any other enactment of the General Assembly, the General Assembly, with consent of a majority of Presbyteries, enact and ordain as follows:-

1. A minister of the Church of Scotland may lawfully solemnise the marriage of a person whose former marriage has been dissolved by divorce and whose former spouse is still alive, provided that the said minister adhere to the requirements stated hereunder.

2. A minister shall not accede as a matter of routine to a request for the solemnisation of marriage of persons whose marriage has been dissolved by decree of divorce as aforesaid.

3. A minister invited to celebrate such a second marriage shall, in order to enable a decision to be made, take all reasonable steps to obtain relevant information which shall normally include the following:-
   (a) adequate information concerning the life and character of the parties to be married; here the very greatest caution shall be exercised in cases where, for any reason, no pastoral relationship exists between the minister and either or both of the parties concerned;
   (b) the grounds and circumstances of the divorce case;
   (c) facts bearing upon the future well-being of any children concerned;
   (d) whether any other minister of religion has declined to solemnise the proposed marriage;
   (e) the denomination to which the parties belong; special care shall be taken in cases where one or both parties belong to a denomination whose discipline in this matter may differ from that of the Church of Scotland.

4. A minister shall also consider whether there is danger of scandal arising if the re-marriage is solemnised; at the same time, and before refusing to solemnise the re-marriage, the minister shall take into careful consideration the moral and spiritual effect of a refusal on the parties seeking such a marriage.

5. As the determinative factor, a minister shall do all he or she can to be assured that by word and deed there has been sincere repentance where guilt has existed in the past on the part of any divorced person seeking re-marriage. He or she shall also give the most careful instruction, where this is needed, in the nature and requirements of a Christian marriage.

6. A minister shall not be required to solemnise a re-marriage against his or her conscience.

7. Every Presbytery shall appoint certain individuals (who need not be members of the Presbytery concerned) with one of whom ministers in doubt as to the correct course of action may consult if they so desire; in such cases the final decision must rest with the minister who has been asked to officiate.
8. The admission to Communion of persons who have contracted marriage after divorce, and any other matters affecting pastoral care, shall remain the responsibility of the minister and Kirk Session involved.

9. The Acts of Assembly of 1566 and 1576 anent the re-marriage of divorced persons and all other enactments of like tenor and effect are hereby repealed.

10. For the purposes of this Act, the term 'minister' shall be deemed to include 'deacon'.
XXVII. MINISTERS AND THE CIVIL POWER ACT (ACT XXVII 1959)

Edinburgh, 26th May 1959, Session 12.

Whereas the Act of 19th December 1638 Against the Civill Places and Power of Kirkmen declared “that it is both inexpedient and unlawful in this Kirk for Pastors separate unto the Gospell to brook civill places and offices, as to be Justices of the Peace, sit and decerne in Counsell, Session or Exchecker to ryde or vote in Parliament, to be judges or assessors in any civill judicatorie”. Whereas for many years past there have been many cases where ministers have become Justices of the Peace and members of local authorities charged with duties which include those of civil judicatories such as Burgh Courts, and no adverse effect upon the spiritual influence of the Church has followed thereon.

Now therefore the General Assembly with consent of a majority of Presbyteries hereby enact and declare that the Act of 19th December 1638 Against the Civill Places and Power of Kirkmen, and all other Acts of the like tenor and effect are hereby repealed.
XIX. CONGREGATIONAL CONSTITUTIONS ACT (ACT XIX 1964) (AS AMENDED BY ACT V 2003 AND ACT I 2017)

Edinburgh, 22nd May 1964, Session 7.

The General Assembly enact and ordain as follows:-

**Transition to Model Deed**

1. *Secs 1 to 5 repealed by Act I 2017.*

**Transition to the Unitary Constitution**

6. The Delegation of the General Assembly shall have power to issue to congregations of full status a Unitary Constitution, where either of the following requirements have been satisfied:–

   (a) The congregation shall have passed a Resolution to adopt the Unitary Constitution at a Congregational Meeting specially called for the purposes by intimation on the two Sundays immediately preceding the meeting, and the Presbytery of the bounds shall have concurred in the said Resolution, or

   (b) Two or more congregations have agreed to unite or have been united in terms of a Basis of Adjustment which provides that the financial or temporal affairs of the united congregation shall be administered as, or is in accordance with, the said Unitary Constitution.

7. Notwithstanding the terms of the Deed of Unitary Constitution, in cases where the Deed shall in future be issued to a congregation whose financial or temporal affairs immediately prior thereto have been administered by a Deacons’ Court consisting wholly or partly of members ordained or commissioned for life or otherwise holding office for life, such members of the former Deacons’ Court, if they so wish, shall, without election, become members of the Finance Committee or Property Committee (by whatever name), the choice between these two Committees being made in each case by the Kirk Session, for life or for as long as they wish to remain members thereof, provided always that their names remain on the Communion Roll. This provision shall no longer apply to any individual who resigns from such committee membership in terms of this section.

8. (1) For the avoidance of doubt, the Unitary Constitution states the constitution of existing *quo ad omnia* parishes.

(2) Any *quo ad omnia* Kirk Session may (1) apply direct to the Delegation of the General Assembly for the issue of such a Deed, first informing the Presbytery of its intentions but without requiring the approval of the Presbytery and in any case (2) use the term “Unitary Constitution” to describe the constitution of the congregation.
XXVIII. ADMISSION OF WOMEN TO THE ELDERSHIP ACT (ACT XXVIII 1966)


The General Assembly, with the consent of a majority of Presbyteries, enact and ordain:

1. Women members of a congregation shall be eligible for election and admission as elders on the same terms and conditions as men members of a congregation.

2. Act X of 1932 is repealed so far as it is inconsistent with this Act.
XXV. ADMISSION OF WOMEN TO THE MINISTRY ACT (ACT XXV 1968)

Edinburgh, 22nd May 1968, Session 3.

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

1. Women shall be eligible for ordination to the Holy Ministry of Word and Sacraments on the same terms and conditions as are at present applicable to men.

2. All Acts, Deliverances, Schemes, and Regulations of the General Assembly (including the Standing Orders thereof) shall be so construed that references therein to ministers of the Word and Sacraments shall include women. All express exclusions of women shall cease to have effect (e.g. 1964, XV.). Presbyteries, and Kirk Sessions shall amend their constitutions and regulations (under whatever name they may be designated) accordingly.

3. The Legal Questions Committee shall take all necessary steps to secure that all alterations, consequential upon the foregoing sections of this Act, in acts of Parliament (public and private), Orders in Council, and other documents shall be effected with the least possible delay.
I. WOMEN READERS ACT (ACT I 1970)


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

Women shall be eligible to be set apart as readers on the same terms and considerations as are at present applicable to men.
I. RECOGNITION OF MARRIAGE SERVICES ACT (DECLARATORY ACT) (ACT I 1977) (AS AMENDED BY ACT II 2004) 
Edinburgh, 24th May 1977, Session 1.

The General Assembly declare as follows:-

1. The Church of Scotland recognises as sufficient for the solemnisation of marriage any form of ceremony which is in accordance with the terms of Sections 2 and 3 below.

2. Marriage in the Church of Scotland is solemnised by an ordained minister in a religious ceremony wherein, before God, and in the presence of the minister and at least two competent witnesses, the parties covenant together to take each other as husband and wife as long as they both shall live, and the minister declares the parties to be husband and wife.

3. Before solemnising a marriage a minister must be assured that the necessary legal requirements have been complied with and that the parties know of no legal impediment to their marriage, and he or she must afterwards ensure that the Marriage Schedule is duly completed.

4. For the purposes of this Act, the term ‘minister’ shall be deemed to include ‘deacon’.
III. PROCLAMATION OF THE BANNS ACT (ACT III 1978)

Edinburgh, 20th May 1978, Session 1.

The General Assembly enact, declare and ordain as follows:-

1. Subject to the terms of Section 2 hereof Act XVI 1932, anent Proclamation of Banns of Marriage, as amended by Act VI 1942, Act III 1959, Act I 1971, and Act I 1975, together with Act II 1957 anent Proclamation of Banns of Marriage, are hereby repealed; and all Schedules and Regulations relevant thereto are hereby rescinded.

2. Notwithstanding the above, any person usually resident in Scotland and requiring proclamation of banns in order to be married furth of Scotland may have banns proclaimed in any parish church within the registration district within which he or she usually resides and the repeal of the Acts above mentioned is without prejudice to the validity of such proclamation.
VIII. PRESBYTERY OF JERUSALEM ACT (ACT VIII 1979) (AS AMENDED BY ACT IV 2003)

Edinburgh, 21st May 1979, Session 3.

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

1. The Presbytery of Jerusalem shall be an Overseas Presbytery of the Church of Scotland.

2. The membership of the Presbytery shall be in accordance with Act III 2000, so far as applicable.

3. (a) The Presbytery shall exercise such powers and perform such functions as normally belong to Presbyteries in the Church of Scotland, in so far as circumstances permit, and in so far as these are consistent with the powers and functions conferred on the World Mission Council by the General Assembly.

   (b) The Presbytery shall not have the power to appoint missionaries or local agents, or to terminate their engagements except in cases of discipline nor shall it have any power to determine the duties or spheres of labour of missionaries or other agents, such power being expressly committed to the World Mission Council or other appropriate Mission Committee of the General Assembly.

   (c) It shall be competent for any member of the Presbytery to dissent and complain to the General Assembly against a judgement of the Presbytery in respect of any matters arising in connection with any causes or questions affecting any of the matters dealt with under 3 (a) hereof. Notice of such Dissent and Complaint, or Appeal, shall be given to the World Mission Council, which shall have a right to be heard in its interests before the Assembly or any Committee thereof, appointed to deal with the subject matter of the Dissent and Complaint, or Appeal.

   (d) The World Mission Council shall have power to make Regulations with reference to all or any matters affecting the appointment and service of its missionary agents and to alter or modify the same from time to time as it may deem necessary.

4. Sec 4 repealed by Act IV 2003

5. The Presbytery shall have the right to elect two Commissioners, one minister and one elder, to the General Assembly, in accordance with the regulations set forth in Schedule A hereto; provided that the General Assembly may amend these regulations without reference to Presbyteries under the Barrier Act.

6. The Presbytery shall not have the right to make returns to Overtures under the Barrier Act, but may receive such Overtures, and all other documents sent down to Presbyteries for discussion and comment, and may transmit comments to the General Assembly.

7. The Presbytery shall have direct access to the General Assembly in the transmission of Overtures.

8. The Presbytery shall be responsible to the General Assembly for the keeping of its permanent record, which shall be sent up to Assembly for examination at the same time and in the same manner as other records.
9. The Presbytery shall not be assessed for the General Purposes Fund nor for the Mission and Aid Fund.

10. The Law and practice of the Church anent Presbyteries shall apply to this Presbytery in so far as consistent with this Act, and in any question of interpretation this Act shall prevail, provided that the Presbytery shall not be bound to perform any Presbyterial function which by reason of the difference between conditions in Israel and conditions in Scotland, is clearly not applicable to it, and in the event of any question arising as to the application of any law of the Church to this Presbytery such questions shall be referred to the General Assembly and their deliverance thereon shall decide the question even if the law in question shall have been enacted by Barrier Act procedure.

11. Nothing in this Act shall affect the relation in which missionaries and ministers of the Church of Scotland stand at present to the World Mission Council, provided always, and it is hereby declared, that a missionary appointed by the World Mission Council shall remain under the jurisdiction and discipline of the Presbytery in matters of life and doctrine.

SCHEDULE A

Regulations anent election of two Commissioners to the General Assembly.

1. Commissioners shall be elected from the ordained ministers on the roll of the Presbytery and from the elders on the said roll, provided that, if no elder is available within the Presbytery, an elder may be selected from the whole eldership of the Church of Scotland.

2. A notice of the meeting at which Commissioners to the General assembly are to be elected shall be sent to each member of the Presbytery.

3. The minute recording the appointment of Commissioners shall (a) contain the sederunt of the meeting, (b) bear that the meeting was constituted, (c) state that the notice calling the meeting contained due intimation of the purpose to elect, and (d) be signed by the Moderator and the Clerk.

4. The Commission shall be forwarded, to the Secretary of the World Mission Council, together with the relative minute, not later than 10th April.

5. The Commission shall be forwarded, duly certified, by the Secretary of the World Mission Council to the Clerks of the General Assembly, so as to be in the hands of the latter by 24th April. The Commission shall be endorsed by the Clerk of the Presbytery to the effect that the elder named therein is a bona fide acting elder.
The General Assembly declare as follows:-

1. This Church no longer affirms the following contents of the *Westminster Confession of Faith*:
   
   **Chap. 22, Section 7**
   “Popish monastical vows of perpetual single life, professed poverty and regular obedience are so far from being degrees of higher perfection, that they are superstitious and sinful snares in which no Christian may entangle himself.”

   **Chap. 24, Section 3**
   “… such as profess the true reformed religion should not marry with Infidels, Papists or other idolators.”

   **Chap. 25, Section 6**
   “He (the Pope of Rome) is Antichrist, that Man of Sin and Son of Perdition, that exalteth himself in the Church against Christ, and all that is called God.”

   **Chap. 29, Section 2**
   “… so that the Popish Sacrifice of the Mass (as they call it) is most abominably injurious to Christ’s one only Sacrifice, the alone Propitiation for all the sins of the Elect.”

2. This Church therefore dissociates itself from the above statements and does not require its office-bearers to believe them.

Edinburgh, 21st May 1988, Session 1.

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

1. When, in the judgement of a Presbytery, after due enquiry in accordance with the provisions of this Act,
   (a) a congregation is in an unsatisfactory state, and
   (b) the unsatisfactory state will continue unless the pastoral tie between minister and congregation is dissolved.

   it shall be competent for the Presbytery to dissolve the pastoral tie and declare the charge vacant.

2. A Presbytery may institute proceedings under this Act only after it is satisfied that:
   (a) there exists a situation in a congregation which significantly and detrimentally affects the peace, well-being or life thereof;
   (b) all reasonable steps of a pastoral nature have been taken to remedy the situation, and have failed; and
   (c) the situation requires further action at the instance of the Presbytery.

3. Proceedings shall not be commenced under this Act, or if already commenced shall be sisted, if it is found that grounds exist for action under Act XV 2002 ¹ anent Long-term Illness of Ministers in Charge.

¹ At the time when Act IV 2002 was passed, Act X 2000 was still in force; it was later replaced by Act XV 2002.

4. The decision of a Presbytery to institute proceedings under this Act shall be final, and shall be by resolution to appoint a Committee of Inquiry. The terms of such resolution shall include an explicit reference to this Act and shall be recorded in the Minutes of the Presbytery.

5. When a Presbytery has resolved to appoint a Committee of Inquiry it shall proceed immediately to make such appointment. The membership of the said Committee shall not include the Moderator or the Clerk of the Presbytery. It shall not normally include any person who has been involved in the previous steps in terms of sub-section 2(b) above. If the Presbytery should appoint any such person it shall record in the Minutes its reasons for so doing.

6. Notwithstanding the factors, in terms of section 2 above, which have led to the appointment of a Committee of Inquiry, the said Committee shall proceed de novo to make an impartial and thorough inquiry into the state of the congregation, by interviewing all parties who can show, or be shown to have, a legitimate interest, by examining relevant records of the congregation, letters, written submissions, and other documents, and by any other means which, in the opinion of the Committee, will help to establish the facts of the situation. To enable it to carry out its duties the Committee shall have
power to order the production of documents and things of any nature, and to cite the minister, all or any of the elders and other office-bearers and members of the congregation, and any other person who is amenable to the jurisdiction of the Courts of the Church to assist with their inquiries. The failure of any person, duly cited, to appear without reason being given to the Committee for non-appearance shall not prevent the Committee proceeding. If judged appropriate, the Committee may also call a meeting or meetings of the congregation.

7. If, at any time, it appears to the Committee of Inquiry that the situation of the congregation has been remedied, the said Committee shall confer with the Superintendence Committee or its equivalent. If the Committees together agree, they shall report to the Presbytery the fact that the situation of the congregation has been remedied. The joint Report of the Committees shall contain in addition such information as is reasonably required to enable the Presbytery to dispose of the matter. Upon consideration of the joint Report the Presbytery may:

(a) resolve to depart from the matter and discharge the Committee of Inquiry, or
(b) continue the matter for further inquiry and report after such period not exceeding one year as the Presbytery shall think fit,

and may, in any case, take such special steps for the pastoral oversight of the congregation as the Presbytery shall think appropriate.

8. Unless the Committee of Inquiry is discharged under section 7 above it shall, when it has completed its inquiry, prepare the FIRST PART of a Report which shall contain:

(a) a brief narrative of the way in which the inquiry has been carried out including, if circumstances warrant it, a note of any difficulties encountered in eliciting the facts of the situation;
(b) a list of persons interviewed;
(c) a list of records, letters, written submissions, and other documents examined;
(d) a note of any other sources of evidence; and
(e) a numbered list of the facts which the Committee considers to have been established by its inquiries.

9. When the FIRST PART of the Report has been completed, the Committee of Inquiry shall, on the basis of that PART, consider whether;

(a) the congregation is in an unsatisfactory state, and
(b) the unsatisfactory state will continue unless the pastoral tie between minister and congregation is dissolved.

and shall thereupon prepare the SECOND PART of its Report, stating its conclusions on (a) and (b) above, together with the reasons for such conclusions and, if it so determines, a recommendation as to action by the Presbytery. The Report shall state whether the conclusions and recommendations, if any, were reached unanimously, and should give voting figures for any decision which was not unanimous.
10. When the Report of the Committee, comprising the FIRST PART and the SECOND PART, has been prepared, it shall be lodged with the Clerk of the Presbytery who shall forthwith dispatch by recorded delivery a copy thereof, together with a copy of this Act, to the minister, ordering him, or her, in the name of the Presbytery, to lodge a Response, if so advised, within twenty-eight days of such dispatch. If such a Response is submitted, it shall contain a statement, in articulate numbered paragraphs corresponding to the paragraphs of the Report of the Committee of Inquiry prepared in terms of section 8(e) above, in which the minister shall state whether he or she agrees or disagrees with each statement made by the Committee, and, in the case of disagreement, shall state the minister’s contentions in response to those of the Committee. Such Response may, in addition, contain in concise form such other information and comment as the minister wishes to place before the Presbytery.

11. In the event of the minister failing to submit a Response within twenty-eight days in terms of section 10 above, the Clerk shall inform him or her in writing that if he or she does not either:

(a) submit a Response within a further fourteen days, or
(b) submit a written request for more time to prepare a Response, with the grounds therefor,

he or she shall be deemed to have concurred in the statements in the Report in terms of section 8(e) above. In the event of a written request for more time being submitted, the Clerk shall report this to the Presbytery no later than its next ordinary meeting, and the Presbytery shall determine a date by which a Response shall be submitted, which date shall be communicated to the minister with intimation that, as above, failure to submit a Response by that date will be deemed to be concurrence in the statements in the Report.

12. When a Response has been duly submitted, or when the prescribed periods in terms of sections 10 and 11 above have expired without a Response being submitted, the Clerk shall inform the Moderator who shall call a meeting of the Presbytery pro re nata to consider and adjudicate upon the issues raised in the Report and Response, if any; and a copy of the Report and the Response, if any, shall be sent to every member of the Presbytery along with the notice calling the meeting. At the same time the minister shall be cited to appear.

13. For the avoidance of doubt it is declared that the members of the Committee of Inquiry shall not be at the bar of the Presbytery at any stage in the proceedings, even if cited and called as witnesses; provided that the Convener, or other member appointed by the Committee, giving in the Report, and the minister, shall speak from the bar and shall be deemed to be parties at the bar throughout the subsequent proceedings.

14. At the meeting of the Presbytery pro re nata the procedure shall be as follows:

(i) The Report of the Committee of Inquiry and the Response of the minister, if submitted, shall be tabled without discussion.
(ii) If the Committee and the minister are in dispute in respect of any matter of fact, the Presbytery shall proceed to hear such relevant evidence, oral and
documentary, as may be presented by the Committee and the minister respectively, and to adjudicate thereon as follows:

(a) Evidence may be presented by the Convener or other member appointed by the Committee, and by the minister personally or by counsel or solicitor as each shall think fit, and shall be subject to cross-examination, and to questions by the Presbytery.

(b) When all evidence has been received, the Presbytery shall hear each party in turn on the issues of fact in dispute, after which parties shall be removed.

(c) When parties have been removed the Presbytery shall make findings on the issues of fact in dispute in the light of the evidence before it, and shall record such findings in the Minutes together with a statement of the facts not in dispute, and such findings and statement together shall comprise the Basis of Fact for further procedure.

(iii) If the Committee and the minister are not in dispute in respect of any matter of fact the Presbytery shall adopt the Committee’s statement as the facts in the matter, and shall minute the same as the Basis of Fact for further procedure.

(iv) For the purposes of the two preceding sub-sections there shall be a dispute in respect of a matter of fact if and only if the minister has submitted a Response and the dispute arises on the terms of the Report and Response.

(v) When the Basis of Fact has been duly minuted, and the parties informed of its terms, the Presbytery shall hear the submissions and argument of the parties. The Convener or other member appointed by the Committee, and the minister, may address the Presbytery personally or by counsel or solicitor as each shall think fit. Thereafter parties shall be removed, and motions shall be called for.

(vi) Motions shall in the first instance be directed to resolving the question as to whether or not the congregation is in an unsatisfactory state. In the event of a judgment that the congregation is not in an unsatisfactory state, the case will thereby be concluded.

(vii) Motions should thereafter be directed to reaching a final judgement based on the considered opinion of the Presbytery as to whether or not the unsatisfactory state will continue unless the pastoral tie is dissolved. Since an affirmative answer to that question is a precondition of a judgement to dissolve the pastoral tie, in terms of section 1 of this Act, any motion to dissolve the pastoral tie must include an explicit statement to the effect that it is the opinion of the Presbytery that the unsatisfactory state will continue unless the pastoral tie is dissolved; and also, if the Presbytery is of that opinion it shall be bound to proceed to dissolve the pastoral tie. Any other motion must include an explicit statement to the effect that the Presbytery is not of the opinion that the unsatisfactory state will continue unless the pastoral tie is dissolved, and it must also contain a resolution to effect some alternative remedy for the unsatisfactory state, or an alternative course of action.

(viii) For the avoidance of doubt it is declared that it shall be competent for the Presbytery to find the state of the congregation unsatisfactory and to dissolve the pastoral tie even if the Report of the Committee of Inquiry contains no conclusion or recommendation to such effect, provided that, in the opinion of the Presbytery, the Basis of Facts warrants a judgement to such effect.
(ix) The final judgement of the Presbytery shall be recorded in the Minutes, which shall be adjusted and approved by the Presbytery before the conclusion of the meeting.

15. In all proceedings under this Act procedure shall be in accordance with the Standing Orders of the Presbytery and with the normal practice of Courts of the Church, provided that where any of these are inconsistent with the provisions of this Act the provisions of this Act shall prevail, and in particular the following provisions shall apply:

(a) While no time limits shall be determined beforehand for any speeches, the Presbytery may resolve to require anyone already speaking to conclude within specified time if, in the opinion of the Presbytery, the ends of justice will best be served by such requirement, considering not only that the ends of justice require that parties be adequately heard but also that unduly long meetings, or meetings continued through several adjournments, are not conducive to the ends of justice.

(b) The Presbytery shall at the commencement of proceedings under this Act apply to the Legal Questions Committee for the appointment of an Assessor to advise the Presbytery on matters of procedure.

(c) The Presbytery shall make such contribution to the cost incurred by the minister in preparing sufficient copies of the Response for all members of the Presbytery, and in circulating the Response, as shall be agreed between the Presbytery and the minister, or, failing such agreement, as shall be fixed by the Legal Questions Committee.

16. When the Presbytery has reached a judgement dissolving the pastoral tie, it shall immediately suspend the minister from office as minister of the charge, but without prejudice to continued payment of stipend and occupancy of the manse, and it shall also immediately appoint an interim Moderator. Such suspension shall continue until the date appointed by the Presbytery for the dissolution of the pastoral tie, or until the case is settled on appeal.

17. Parties have a right to appeal or dissent-and-complain after the final judgement of the Presbytery. The procedure shall, except as herein provided, be as in section 46 of the Discipline Act (Act I 2019). In the event of no appeal or dissent-and-complaint being taken, the judgement of the Presbytery shall become effective on the date specified in terms of section 14(vii) above, and the Presbytery shall report this judgement to the Ministries Council, which Committee shall, in the event of the pastoral tie being dissolved, make provision for the minister as provided in section 18 of this Act.

18. When a minister’s tenure has been terminated in terms of this Act he or she shall be entitled to receive, for the lesser of (i) a period of six months and (ii) until the minister begins another appointment:

(a) a maintenance allowance of equal to the amount of the prevailing stipend at point 1 of the scale at the date of payment; and

(b) the use and occupancy of a manse on the same terms as normally apply to a minister in a charge, or, in the event of no manse being available or of his or her choosing to live in his or her own house, an allowance appropriate to individual needs to be determined in consultation between the minister and the Ministries Council.
At the end of the six month period, if the minister is still unplaced, the whole situation shall be reviewed by the Presbytery in consultation with him or her and with the Ministries Council.

19. A judgment dissolving the pastoral tie shall be reported immediately to the Ministries Council, who shall arrange for a minister from another Presbytery to give pastoral advice, and counsel to the minister, whether or not appeal or dissent and complaint has been taken.

20. (a) All procedure in Presbytery under this Act shall be taken in private, and shall be the subject of a Record Apart, only judgements as above prescribed being recorded in the Minutes.
   (b) In the event of an appeal or dissent-and-complaint the Presbytery Clerk shall furnish copies of the Record Apart to the parties and to the Principal Clerk.

21. Act XXI 1960, is hereby repealed.
V. CHURCH FINANCE ACT (ACT V 1989) (AS AMENDED BY ACT X 2002)

The General Assembly enact, ordain, and declare as follows:-

I CENTRAL FINANCE

1. No Council, Committee, or other body appointed by or subject to the jurisdiction of the General Assembly and which is or may be funded in whole or in part in accordance with the Co-ordinated Budget, as prepared and approved by the authority of the General Assembly, shall have the right to appeal for funds directly to the Congregations of this Church or any of them, and the allocations required from Congregations in accordance with the said Co-ordinated Budget shall be the sole method of raising funds from the said Congregations for the funding of all such Councils, Committees, or other bodies; provided that in the event of any circumstances arising which, in the opinion of the Stewardship and Finance Committee, necessitates a special appeal for funds to Congregations, the said Committee may in its sole discretion grant permission for such an appeal to be made and state the conditions on which it is to be made.

2. Section 1 above is not to be construed as prohibiting any Council, Committee, or other body from making appeals for funds from sources other than the Congregations of this Church. The right of the Guild to appeal on behalf of a designated Annual Project in accordance with such arrangements as have been or may be approved by the General Assembly is hereby affirmed.

II CONGREGATIONAL FINANCE

3. No Congregation, Kirk Session, Financial Board of any kind or other body or person acting or purporting to act in the name of any of these or on their behalf or for their benefit shall have the right to appeal for Congregational funds outwith the Congregation or Parish concerned, except with the authority in writing of the Presbytery of the bounds; and in the case of any appeal for the erection, alteration or repair of a Church, Hall, Manse or other heritable property, no Presbytery shall grant authority unless such appeal has been approved in writing by the Committee on Planning and Deployment of the Ministries Council and by the General Trustees, but under declaration that the granting of consents by the said Committee and the General Trustees in any individual case is without prejudice to the right of a Presbytery to decline to grant authority in that case. For the purposes of this Act an appeal contained on a website belonging or pertaining wholly to a single congregation or linkage shall not constitute an appeal outwith the congregation or parish as defined above; upon request from any party the Presbytery shall determine whether any appeal for funds constitutes an exception of this type, subject to a right of appeal or dissent-and-complaint.

4. Where the making of an appeal is duly authorised, the deliverance of the Presbytery granting such authority shall be included in all letters, circulars or other papers issued for the purpose of soliciting contributions.
5. All contributions received in answer to an appeal shall be duly recorded in accounts kept for the purposes of the appeal, audited and exhibited annually to the Presbytery as part of or as an appendix to the Congregational Accounts, until the appeal is concluded.

6. Section 3 above is not to be construed as prohibiting an appeal for funds to persons (not members of the Congregation) residing in the Parish nor as prohibiting applications for grants from public bodies or Trusts or the like.

7. Nothing in this Act is to be construed as prohibiting any Congregation, Kirk Session or Financial Board of any kind from receiving any legacy or unsolicited donation.

8. In respect that all funds received by Congregations of the Church from any source, including by way of the offerings of the people or by legacy or donation, are (unless appropriated in law to a specific purpose) to be applied only for the purposes of the Congregation and of this Church; and, since those responsible for their administration are stewards of the liberality of former as well as present members of this Church, no Kirk Session or Financial Board of any kind or other body or person representing a Congregation may use any such funds for any purpose other than a purpose of the congregation or of this Church and in accordance with the provisions of the constitution of the Congregation concerned.

9. The Act anent Collecting-Books (1931, XXI) and the relative Regulations on the issue of Collecting-Books are hereby repealed.
The General Assembly enact and ordain as follows:

**Definition**

A Reader is a person who has been set apart by a Presbytery to an office which qualifies him or her to carry out duties within the Church of Scotland which are principally concerned with the ministry of the Word and the conduct of public worship.

1. **Application and acceptance of candidature**
   (a) The provisions of sections 2, 4, and 5(1), (2) and (5) of the Selection and Training for Full-Time Ministry Act (Act X 2004), and (in respect of decisions in terms of (c)(iv) below) the appeals process referred to therein, shall be followed *mutatis mutandis* by any person wishing to apply for recognition as a candidate for the readership.
   (b) An application cannot be accepted from any person less than 17 years old. No upper age limit shall apply to application for acceptance for training. Applicants may, at the discretion of the Committee, be required to undergo a medical examination to demonstrate their fitness to undertake training for ministry.
   (c) A Local Review, established as described in section 5(3) of Act X 2004 *mutatis mutandis*, will arrive at one of the following written determinations:
      (i) That the applicant is suitable to commence training as a candidate for the readership;
      (ii) That the applicant should undergo a further period of discernment before a decision in terms of sub-paragraph (i) can be made;
      (iii) That the applicant is not ready to commence training as a candidate for the readership; or
      (iv) That the applicant is not suitable to be a candidate for the readership.
   (d) Any applicant in respect of whom a decision is made in terms of sub-paragraph (c)(iii) above may apply to undertake up to two further periods of discernment.
   (e) An individual whose application is successful will be known as a candidate for the readership.

2. **Training of Candidates**
   (a) Each candidate must complete the training described in this section within five years from the date on which he or she becomes a candidate. Failure to complete the course on time will normally result in the loss of status as a candidate for the readership. The requirements shall consist of the academic course described in sub-section (b), the conference programme described in sub-section (c), and the placements described in sub-section (d).
   (b) (i) The academic course shall consist of a Certificate of Higher Education from any institution which may be approved from time to time by the Ministries Council. The course and its constituent modules shall be approved by the Council. Candidates may undertake their course by distance learning where that is offered by the academic institution. An individual may commence the
academic course before becoming a candidate, but must complete the course successfully before being set apart as a reader.

(ii) When a candidate already has relevant training or education, the Ministries Council shall have power to give credit for it and to prescribe whatever additional training may be necessary. This further training shall be drawn from the courses or modules referred to in paragraph (b)(i) above.

(c) A conference programme shall be organised and provided by the Ministries Council for those recognised as candidates in terms of section 1 above. The content of each conference shall be determined by the Council, and the programme shall include such training in Safeguarding and Child Protection issues as shall from time to time be required by the General Assembly. Attendance at all sessions of all conferences shall be mandatory.

(d) Each candidate shall, in the course of his or her candidature, complete (to the satisfaction of his or her Presbytery in consultation with the Ministries Council) two training placements in congregations other than the congregation in which the candidate is a communicant member. The placements shall be chosen and arranged by the Presbytery.

(e) The Presbytery shall appoint for each candidate a regent, who may be a member of a support group organised locally for the candidate, and who shall be responsible for the Presbytery’s pastoral care of the candidate for the duration of his or her course.

(f) Before completing the course, and during the second training placement, each candidate must pass a Final Preaching Assessment, demonstrating skills in the conduct of worship to the satisfaction of (i) a representative of the Ministries Council’s Candidate Supervision Committee, (ii) a representative of the Presbytery and (iii) the supervisor of that placement. The candidate may be assessed on more than one occasion, if necessary, to fulfil the requirement.

(g) Upon fulfilment of all the requirements in sub-sections (b)-(d) and (f), the appointee of the Candidate Supervision Committee shall report to the Presbytery that the course has been completed and convey the Committee’s recommendation to the Presbytery. The Presbytery shall make such further enquiry as it wishes, and shall interview the candidate. It shall decide in terms of one of the following resolutions:

(i) That the candidate be set apart as a reader in terms of section 3 below;

(ii) That the candidate complete a probationary period as determined by the Presbytery, giving attention to specified aspects of the readership, before a further decision is made in terms of this sub-section; or

(iii) That the candidate be not set apart.

These decisions shall be subject to the normal rights of appeal.
3. **Admission to the Office of Reader**

Persons who have completed the approved course of training shall be admitted to the office of Reader by Presbytery upon giving satisfactory answers to the following questions:

(i) Do you believe in one God – Father, Son and Holy Spirit; and do you confess the Lord Jesus Christ as your Lord and Saviour?

(ii) Do you believe the Word of God, which is contained in the scriptures of the Old and New Testaments, to be the supreme rule of faith and life?

(iii) Do you believe the fundamental doctrines of the Christian Faith contained in the Confession of Faith of this Church?

(iv) Do you acknowledge the Presbyterian government of this Church to be agreeable to the Word of God; and do you promise to be subject to this Presbytery, or to any other Presbytery within whose bounds you may reside, and to the General Assembly?

(v) Do you promise to seek the unity and peace of this Church, to uphold the doctrine, worship, government, and discipline thereof, and to cherish a spirit of love towards all your brothers and sisters in the Lord?

(vi) Are not zeal for the glory of God, love to the Lord Jesus Christ, and a desire for the salvation of all people, so far as you know your own heart, your great motives and chief inducements to enter into the office of Reader?

(vii) Do you engage in the strength of the Lord Jesus Christ to live a godly and circumspect life; and faithfully, diligently, and cheerfully to discharge the duties of Reader, seeking in all things the advancement of the Kingdom of God?

After these questions have been answered satisfactorily, the Formula, which is the same as for ministers, shall be signed and the person shall be admitted to the office of Reader.

4. **Duties of Readers**

It shall be competent for a Reader set apart in the terms of this Act to

(a) provide occasional pulpit supply in terms of Act II, 2000

(b) be attached to a charge within the bound of the Presbytery. In such an attachment the Reader may be invited to

- conduct services within the charge subject to the approval of the Parish Minister or Interim Moderator and the Presbytery after consultation with the Kirk Session
- act as chaplain to residential accommodation or hospital with the approval of the Parish Minister or Interim Moderator and the Presbytery and where appropriate the Ministries Council
- conduct funeral services with the approval of the Parish Minister or Interim Moderator and the consent of the family concerned
- conduct school assemblies at the invitation of the appropriate school authority and with the concurrence of the School Chaplain, or Parish Minister or Interim Moderator, where there is no Chaplain
- perform any other duty which the Parish Minister or Interim Moderator may assign to the Reader which is principally concerned with the conduct of worship but which may include related pastoral work.

(c) Any arrangement made under Section 4 (b) of this Act shall be for an initial period of no more than three years and shall be reviewed annually by the Presbytery.

(d) A Reader set apart in the terms of any Act of the General Assembly prior to this Act may normally only provide occasional pulpit supply. Nevertheless, a Presbytery may, after consultation and agreement with interested parties and with
concurrence of the Ministries Council permit such a Reader to carry out duties under section 4 (b) of this Act.

(e) Any Reader of the Church of Scotland is authorised to conduct public worship anywhere within the church.

5. Remuneration
   (a) A Reader who provides occasional pulpit supply shall be entitled to the appropriate fee as laid down by the regulations of the General Assembly.
   (b) A Reader who is attached to a congregation, or to linked congregations, shall be paid such fees as are agreed by the Presbytery in consultation with the Kirk Session or Kirk Sessions and the Ministries Council. Such fees shall be reviewed and agreed annually by Presbytery.
   (c) A Reader who is attached to a congregation, or to linked congregations, shall be paid travelling expenses at the rate approved by the General Assembly for pulpit supply.
   (d) A Reader who acts as a chaplain shall be paid such fees and expenses, if any, as may be agreed by the Presbytery and the body making the appointment. Any such arrangement shall be made prior to the Presbytery agreeing to the appointment.
   (e) A Reader performing any other duty approved by Presbytery for which fees, expenses, or other remuneration are not paid shall be reimbursed by the Presbytery for out of pocket expenses and for travelling expenses at the rate approved by the General Assembly for pulpit supply.

6. Superintendence
   (a) Superintendence of Readers shall be exercised by Presbyteries. Each Presbytery shall maintain and revise annually a Roll of Readers under its supervision.
   (b) Readers shall appear annually before their Presbytery and shall attend at least once in every three years in-service training approved by the Ministries Council.
   (c) Readers set apart after May 31 2012 will participate in a biennial cycle of personal appraisal linked to engagement in ongoing learning and development, to be resourced by the Ministries Council. The Council will provide training for appraisers and Readers in consultation with Presbyteries. Those set apart prior to the above date are also strongly encouraged to participate in such a cycle.
   (d) Any Reader failing to appear before Presbytery without good cause, or failing to fulfill the in-service training requirement without good cause, shall be removed from the Roll of Readers and advised accordingly.
   (e) Presbyteries shall send the names and addresses of those whom it admits to the office of Reader, and those whom it removes from its Roll of Readers, to the Ministries Council and the Editor of the Year Book.
   (f) On leaving the bounds of a Presbytery, a Reader shall, on request, receive a certificate of status, valid for a period of one year, which he or she may lodge with the Presbytery within whose bounds he or she becomes resident. The Reader’s name shall then be added to the Readers’ Roll of the latter Presbytery whose Clerk shall notify the Ministries Council and the Editor of the Year Book.
   (g) Before making any appointment, in the terms of Section 4 (b) of this Act, of a Reader whom it has not itself set apart, a Presbytery shall satisfy itself that the Reader is eligible in the terms of this Act.

7. Transfer to the Ministry of Word and Sacrament
This section was deleted by Act V 2019.

8. **Admission of Readers from other Churches**

Readers, and individuals with equivalent status in other Churches, may be admitted to the readership of the Church of Scotland upon becoming communicant members of this Church, and the following procedure shall be followed:

(a) The person wishing to transfer ("the applicant") shall intimate to the Presbytery in which he or she resides, and to the Assessment Scheme Committee, his or her intention to apply for recognition as a reader. The Presbytery shall appoint one of its members to represent it in the admission process, and the representative shall undertake such training for the role as the Ministries Council shall from time to time require.

(b) The Assessment Scheme Committee shall determine whether the applicant's status is recognised by the Church of Scotland, and may use only that ground to refuse to accept an application. The decision shall be subject to the appeals process specified in paragraph (g) below.

(c) The Assessment Scheme Committee shall specify in each case what written materials are required in support of the application: these shall always include an application form; Scottish Criminal Records Office disclosure form and declaration; and references (including one from the minister of the Church of Scotland congregation of which the applicant is a member, and one from the previous denomination confirming status and whether the applicant is in good standing).

(d) The Assessment Scheme Committee shall establish a Review Panel consisting of one representative of the Committee and the Presbytery representative referred to in paragraph (a) above. The Panel shall interview the applicant, with a member of the staff of the Ministries Council present.

(e) A report from the Panel shall be sent to the Assessment Scheme Committee, and shall contain recommendations relating to approval of the application and any training requirements to be imposed. The Assessment Scheme Committee shall make a final determination of the training requirements that shall be imposed, and convey that determination and its overall recommendation to the Presbytery and to the applicant.

(f) The Presbytery shall resolve whether to admit the applicant to the status of reader in the Church of Scotland, adopting without amendment the training requirements determined by the Assessment Scheme Committee. The Presbytery shall arrange for a service of admission of the reader as soon as any requirements have been completed to the satisfaction of the Ministries Council.

(g) The appeals process in respect of this section shall be as follows:

   (i) Appeals against decisions of the Assessment Scheme Committee in respect of recognition of status (para (b)) or training requirements (para (e)) shall be heard by the Appeals Committee of the Ministries Council (or any successor body), which shall have power to determine the question finally.

   (ii) Appeals against the decision of the Presbytery (para (f)) shall be heard by the Appeals Committee of the Commission of Assembly in terms of the Appeals Act (Act I 2014).

9. **Repeal**

Act XXVIII 1974 and Act XIV 1978 are hereby repealed.
10. **Appeals**

   Appeals against decisions of the Ministries Council in terms of sections 1, 2 and 9 of this Act shall be subject to the provisions of Act VI 2007 anent the Ministries Appeals Panel.


The General Assembly enact and ordain as follows:-

1. The Model Deed of Constitution approved and adopted by the General Assembly on 20th May 1989 is hereby amended to the extent included in the amended Model Deed of Constitution annexed hereto.

2. The Model Deed of Constitution as so amended (hereinafter referred to as “the amended Model Deed”) is hereby approved and adopted and the forms of Model Deed of Constitution heretofore in use shall not hereafter be issued by the Delegation of Assembly.

3. The Delegation of Assembly is authorised and empowered to execute and issue the amended Model Deed (subject to such minor adjustments or alterations as the Delegation may consider necessary or expedient to make thereon in particular cases) to all Congregations to whom the Model Deed of Constitution shall fall to be issued after the passing of this Act, and when so issuing the amended Model Deed the Delegation shall, at the same time, issue a copy of the Regulations anent Congregational Finance approved by the General Assembly from time to time.

4. All Model Deeds of Constitution which have been issued to Congregations prior to the passing of this Act shall, as from 1st December 1994, be amended to the effect that Articles First to Nineteenth inclusive of the amended Model Deed shall supersede and be substituted for Articles First to Twentieth inclusive of the existing Model Deeds; but without prejudice to anything done or any proceedings taken under the latter Articles prior to 1st December 1994.

5. The Delegation of Assembly shall, as soon as practicable, and in any event not later than 30th September 1994, send a copy of this Act and of the amended Model Deed to each Congregation whose temporal affairs are, at the passing of this Act, administered by a Congregational Board under the Model Deed of Constitution.

ANNEXATION

DEED OF CONSTITUTION

OF

..................

IN THE PRESBYTERY OF ....................................

Constitution of Congregational Board
First, The control of the financial and other temporal affairs of the congregation shall (subject as hereinafter mentioned, or to any Regulations or directions which may hereafter be enacted by the General Assembly) be vested in the Congregational Board (hereinafter referred to as “the Board”), which shall consist of the minister or ministers of the congregation, any associate minister, assistant minister, deacon or deaconess appointed to serve with the congregation, the elders, and a certain number of Communicants of eighteen years of age or over to be elected by the congregation as hereinafter provided. The number so to be elected shall be determined by the congregation, but in no case (and subject as hereinafter mentioned) shall it exceed the number of elders of the congregation as at the date of such election.

In any case where the number of elders is less than six and the Presbytery is satisfied that there is no immediate prospect of that number being augmented, the Presbytery may permit that a number of Communicants in excess of the number of elders be elected to the Board, subject, however, in such cases to the total number of members of the Board other than elders not exceeding six. The Presbytery shall, subject as aforesaid, decide the number to be so elected and shall report each decision to the Delegation of the General Assembly.

The minister or ministers of the congregation and any associate minister, assistant minister, deacon or deaconess appointed to serve with the congregation shall not have a vote except in the event of being chairman and having a casting vote in terms of Article Fifth hereof. Any probationer minister serving with the congregation shall not be a member of the Board, but shall be entitled to be in attendance at its meetings. It is hereby declared that for the purposes of charity law, the members of the Board (except those without voting rights) shall, together with the minister or ministers of the Congregation and those members of the Session who are not members of the Board, comprise the charity trustees.

Election of Board

Second, Not later than the 30th day of June in each year, a meeting of all those whose names are on the Communion Roll of the congregation shall be called by intimation made from the Pulpit on the two Sundays immediately preceding the meeting. The said meeting (which shall be designated the Stated Annual Meeting of the congregation) shall be held in the Church or Church Hall or elsewhere as may be intimated (the Moderator or Interim Moderator of the Kirk Session, whom failing a member of the Presbytery specially authorised by him or her for the purpose, whom failing some person to be elected by those present at the meeting, presiding) on a date to be fixed by the Kirk Session in the case of the first such meeting and subsequently by the Board, for the purpose of electing certain of their number to act along with the minister and the elders on the Board in administering the financial and other temporal affairs of the congregation. In the event of any of such meetings not being held within the said appointed times, the Presbytery may, on application by the Kirk Session to that effect, direct such meeting to be called and held at any time thereafter during that year. One-third of the members of the Board so elected shall retire, annually, but they shall be severally eligible for re-election.” The order of retirement of such one-third of the member shall be fixed by the Board.

* Deacons for life who have been members of a Deacons’ Court immediately prior to the adoption of the Model Deed are in a special position – See Note appended to the Deed of Constitution.
Power to reduce Membership of Board

Third, Notwithstanding the foregoing, it shall be in the power of the congregation by a resolution passed by not less than two-thirds of the members thereof present at a meeting of the congregation (whether the Stated Annual General Meeting or not), of which due notice of the intention to propose such resolution has been given, to resolve that the number of elders on the Board should be reduced to a number specified in said resolution. The reduced number of elders shall be not less than five when the number of members on the Communion Roll does not exceed 200; shall be not less than eight when the number of members of the Communion Roll exceeds 200 but does not exceed 400, and shall be not less than twelve when the number of members on the Communion Roll exceeds 400. In the event of such a resolution being passed (a) the elders who are to serve on the Board shall be elected by the Kirk Session and shall be members of the Board for such period as the Kirk Session may decide, and the Kirk Session shall fill any vacancy that occurs; (b) the number of members of the Board elected by the congregation shall not exceed the number of elders specified in the resolution. If at the time such resolution is passed the number of members of the Board elected by the congregation should exceed the reduced number of elders, the members elected by the congregation may decide among themselves by agreement or failing that by ballot or otherwise as the majority may wish which of them should demit office so as not to exceed the specified number of elders.

It shall be competent for the congregation at intervals of not less than one year after the passing of a resolution as aforesaid to review the matter and by a resolution passed by not less than two-thirds of the members thereof present at a meeting of which due notice of the intention to propose such a resolution has been given to rescind the resolution referred to in the preceding paragraph or to amend it by increasing or reducing the number of elders to serve on the Board, provided that the minimum number shall be as before stated. In the event of the resolution referred to in the preceding paragraph being rescinded, all the elders shall thereupon become members of the Board and the congregation shall have power to elect additional members of the Board up to the total number of elders. In the event of the number of elders, however, being increased but still being less than the total number of elders on the Kirk Session, the Kirk Session shall elect additional members to serve on the Board from their own number as before provided, and the congregation shall have power to elect additional members up to the total number of elders serving on the Board. In the event of the number of elders being further reduced by said amending resolution, the Kirk Session shall decide which of the elders are to serve on the Board, and the members of the Board elected by the congregation shall decide by agreement or failing that by ballot or otherwise as the majority may wish, which of them should demit office so as to reduce their number to a number not exceeding the number of elders on the Board.

Filling of Vacancies

Fourth, In the event of any member of the Board who has been elected by the congregation dying or resigning, or becoming incapacitated to act, or having his or her name removed from the Communion Roll of the congregation, or being suspended from Communion during the currency of his or her term of office, the Board may appoint a duly qualified person to fill the vacancy, and the person thus appointed shall hold office for the remainder of the period for which such predecessor was elected, subject to confirmation at the next Stated Annual Meeting of the congregation.
Quorum and Chairman

Fifth, So soon as the Board has been constituted, three shall be a quorum where the number of the Board does not exceed nine, and five shall be a quorum where the number exceeds nine and does not exceed twenty. Where it exceeds twenty, seven shall be a quorum. The minister or ministers of the congregation (or the Interim Moderator of the Kirk Session during a vacancy) shall be *ex officis* the Chairman of the Board, and in the event of their declining to accept office, the Board shall elect one of their own number as Chairman for the year. If the Chairman (either *ex officis* or elected) shall be absent from any meeting, the members of the Board present shall elect one of their own number as Chairman for that meeting. The Chairman shall have a casting vote only.

Where there is more than one minister of the congregation, each such minister shall, subject to any agreement between or among themselves, be Chairman of the Board at successive meetings in rotation.

Appointment of Officials of Board

Sixth, It shall be the duty of the Board at their first meeting to appoint a Clerk and a Treasurer, who may or may not be of their own number, and both offices may be held by the same person. The Treasurer if holding only that office need not be a member of the congregation. The person or persons so appointed shall hold office during the pleasure of the Board, but in any event shall not hold office longer than three years unless reappointed by the Board, which reappointment may be for a period not exceeding three years but may be renewed thereafter for periods not exceeding three years at a time.

Minutes and Bank Account(s)

Seventh, It shall be the duty of the Clerk to keep regular Minutes of the proceedings of the Board, and also of the proceedings at the Stated Annual Meeting of the congregation, and to maintain these in a permanent Record, in which each Minute, when approved, shall be signed by the Chairman and the Clerk.

It shall be the duty of the Treasurer to keep one or more separate bank accounts in the name of the Congregation. The Treasurer and up to four members may be authorised by the Board to act as signatories of all cheques drawn thereon. Such cheques shall be signed by any two of the said persons; provided that it is shall further be competent for the Board from time to time to resolve that cheques drawn for sums less than a specified amount may be signed by any one of the said persons alone.

Provision of Income

Eighth, It shall be the duty of the Board to create and maintain among the members of the congregation a commitment to the provision, by regular giving, of sufficient income to meet the cost of the whole financial and other temporal affairs of the congregation and to take all necessary and appropriate measures to that end.
Accounting records

Ninth, The Treasurer of the Board shall keep such detailed accounting records of the income and expenditure and of the assets and liabilities of the congregation as shall be necessary for the preparation and audit of the Annual Accounts of the congregation in accordance with Article Thirteenth hereof.

Maintenance of Properties

Tenth, It shall be the duty of the Board to maintain the fabric of all heritable properties vested in the Church of Scotland General Trustees and/or belonging to or held for the congregation in proper order and repair and fully insured against loss or damage by fire and also against loss or damage by such other risks or perils as is appropriate, such insurances to be effected in the name of the General Trustees insofar as the subjects insured are vested in them.

No extraordinary repairs or improvements on the heritable property shall be undertaken, and no material additions shall be made thereto or to the furnishings of the Church or Church Hall, until sufficient funds shall have been raised or assured for the purpose without encroaching upon the Ordinary Income of the Congregation.

Application of Funds and Assets

Eleventh, The Board shall apply the whole funds and assets of any description and under its control in any way exclusively for the purpose of the Congregation and/or the Church of Scotland, unless such funds or assets are otherwise appropriated in law to a specific purpose, and in accordance with all the relevant Acts, Regulations and Deliverances approved by the General Assembly.

Power to borrow money

Twelfth, The Board shall have power to borrow money for the purpose of implementing its duties and obligations but that subject to (One) the Board being satisfied that sufficient funds are available or are assured for the purpose of repaying the money borrowed and (Two) the approval of Presbytery.

Accounts of the Congregation and Matters connected therewith

Thirteenth, The Board, acting with the Session, shall ensure that the provisions of the Congregational Finance Regulations (Regulations II 2016) as amended by the General Assembly from time to time are fully complied with. In particular, the Board and Session shall ensure that the Congregational Accounts are received by the Congregation at its Annual Meeting, such Meeting to be held not later than the 30th day of June following the financial year-end date.

Collections and Funds for other Charitable Purposes

Fourteenth, It shall be the responsibility of the Board to afford the congregation convenient opportunities for contributing to any objects for which the General Assembly shall have
enjoined special collections and the Board shall also have power to make such collections as may be deemed necessary for the needs of the poor or other religious or charitable purposes. Income received and disbursed or funds held or administered for such objects or purposes, whether originating in such collections or otherwise, shall be shown separately in the Accounts, required to be kept or made up in terms of Article Thirteenth hereof.

Appointment of Church Officials

Fifteenth, The Kirk Session shall appoint the Church Officer, the Choirmaster and the Organist or Precentor and any other like officials and shall define their duties. Such officials shall each and all be subject to the direction of the Minister as regards the execution of their duties. The Board shall enter into contracts of employment, which shall incorporate inter alia the foregoing conditions, with all such officials and shall determine their salaries. The Kirk Session shall have power, after consultation with the Board, to direct the Board to suspend or terminate the appointments of all or any of the said officials, all in accordance with the terms of the relevant contracts.

Existing functions of Minister and Kirk Session reserved

Sixteenth, Nothing herein contained shall interfere with the functions assigned to the minister and to the Kirk Session respectively by common law of the Church of Scotland or by any Acts of the General Assembly applicable thereto.

Powers of Presbytery where Board disregard terms of Constitution

Seventeenth, In the event of the Presbytery finding that the Board constituted in terms hereof, or a majority of its members, persist or shall have persisted in disregarding the terms of this Constitution after their attention has been called to the matter, the Presbytery may remove from the Board those who have been guilty of such contumacy, and declare them ineligible for reappointment for a period of not less than three years, and shall thereafter take such steps as they may deem proper to fill the vacancies thus occasioned, with power to the Presbytery, if that Court should itself find it necessary or expedient to do so, to make appointments to the Board.

Interpretation

Eighteenth, If any question shall arise with reference to the election of the Board, or as to the interpretation of any Article of this Constitution or as to the legality of any particular exercise of the powers herein contained, it shall be competent for any person or body interested to apply by Petition to the Presbytery to adjudicate upon the matter, and the judgement of the Presbytery upon such matter, or upon any question arising in connection with the annual audit provided for in Article Thirteenth hereof shall be final, subject only to appeal against the decision of the Presbytery to the Appeals Committee of the Commission of Assembly in accordance with the Appeals Act (Act I 2014).

Powers reserved to General Assembly
Nineteenth, It shall be in the power of the General Assembly at any time, or from time to time, to alter, revoke, amend, or modify this Deed of Constitution, in whole or in part, or to substitute a new Model Deed of Constitution for this Deed of Constitution, subject always to such conditions and provisions relative thereto as the General Assembly shall determine; provided that nothing shall thereby be done to require that the titles of the heritable properties of the congregation be transferred from the existing Trustees to any other body of Trustees.

Given under our hands this day of 20 , and signed and Delivered by us, as duly authorised by the General Assembly of the Church of Scotland, and as a Quorum of the Delegation appointed by the said General Assembly for, inter alia, that purpose.

Note

It is enacted by Act XIX of the General Assembly of 1964, section 3, as follows:

Notwithstanding the terms of the Model Deed of Constitution, in cases where the Model Deed shall in future be issued to a congregation whose financial or temporal affairs immediately prior thereto have been administered by a Deacons' Court, consisting wholly or partly of Members ordained or commissioned for life or otherwise holding office for life, such members of the former Deacons' Court, if they so wish, shall, without election, become members of the Congregational Board for life or for as long as they wish to remain members thereof, provided always that their names remain on the Communion Roll. While any such persons are members of the Congregational Board the number of members elected to the Board by the congregation shall be reduced accordingly, and the provisions in the Model Deed of Constitution for the retiral of members by rotation shall apply only to elected members. Any life member of the Congregational Board who ceases to be a member of the Board during his or her lifetime owing to resignation or some other cause, shall if subsequently elected to the Board be an ordinary member thereof.
III. CONGREGATIONAL MEETINGS (RECEIPT OF ACCOUNTS) ACT (ACT III 1994)
(AS AMENDED BY ACTS VIII 2008 AND VI 2016)
Edinburgh, 21st May 1994, Session I

Whereas the General Assembly have laid down a requirement, in terms of their Regulations anent Congregational Finance, that, after the Trustees’ Annual Report and Accounts of the Congregation have been approved by the Trustees of the Congregation they shall be submitted by the Trustees to the Congregation at the stated annual meeting, or equivalent Congregational meeting in the case of Congregations not having the Model Deed of Constitution; and whereas the forms of Congregational Constitution in use in the Church of Scotland, in some cases, make no provision for the holding of such a meeting or equivalent meeting;

Therefore the General Assembly enact and declare as follows:-

1. This Act shall apply in the case of each Congregation of the Church whose Constitution makes no provision for the holding of a stated annual meeting, or equivalent Congregational meeting, at which the annual Accounts of the Congregation (“the Accounts”) shall be submitted.

2. (1) In this Act “the Financial Board” means the body having the control of the financial and other temporal affairs of a Congregation.
   (2) On a date to be determined by the Financial Board, but not later than the 30th day of June, in each year a Meeting (“the annual Meeting”) of all those whose names are on the Communion Roll of the Congregation shall be called by intimation made from the pulpit on a Sunday giving at least one week’s notice of the meeting, for the purpose of receiving the submission by the Financial Board of the Accounts.
   (3) The annual Meeting shall be held in the Church or Church Hall or elsewhere as may be intimated.
   (4) The Moderator or Interim Moderator of the Kirk Session, whom failing, a member of the Presbytery specially authorised by him or her for the purpose, whom failing some other person to be elected by those present at the Meeting, shall preside.
   (5) It shall be the duty of the Clerk to the Financial Board to keep regular Minutes of the proceedings of the annual Meeting and to maintain these in a permanent Record in which each Minute, when approved, shall be signed by the Chairman and the Clerk.

3. In the event of the annual Meeting not being held within the said appointed time, the Presbytery may, upon application by the Financial Board to that effect, direct the Meeting to be called and held at any time thereafter during that year.
XI. CANDIDATES, LICENTIATES AND PROBATIONERS ACT (ACT XI 1994)

[This Act is to be interpreted in conformity with Act IX 2002.]

The General Assembly enact and ordain as follows:-

1. Definitions
For the purposes of this Act the following terms shall be deemed to have the meanings hereby assigned to them:-

(a) A Candidate shall mean a person accepted for the Ministry of this Church who is engaged in, but has not completed, the course of training required by the Candidate Supervision Committee.
(b) A Probationer shall mean a Candidate who has completed the course of training as defined in (a) above and has obtained his or her Exit Certificate from the Candidate Supervision Committee, has been licensed by a Presbytery, and is engaged in the performance of a Probationary Period as required by the said Committee.
(c) A Licentiate shall mean (i) a Probationer as defined in (b) above the performance of whose Probationary Period has been sustained, or (ii) a Candidate who has been exempted from the performance of a Probationary Period and has been licensed, or (iii) a Candidate who, having completed the required course and having been licensed, has not proceeded to the performance of a Probationary Period.
(d) A Minister shall mean one who has been ordained by a Presbytery of this Church to the Ministry of Word and Sacrament.

2. Ordination
(a) When a licentiate is ordained he or she shall be regarded as a Minister as defined in Section 1 (d) above, and any legislation applicable to a Candidate, Probationer, or Licentiate shall cease to be applicable.
(b) A Licentiate may be ordained only after the Presbytery concerned has been informed by the Candidate Supervision Committee that the Probationary Period has been sustained or that the Licentiate has been exempted from the performance of a Probationary Period.

3. Roll of Probationers and Licentiates
(a) The Ministries Council shall keep a Roll of Probationers and Licentiates.
(b) When Candidates are licensed, the Clerk of the Presbytery concerned shall immediately intimate the names and addresses of those licensed to the Secretary of the Candidate Supervision Committee.
(c) Immediately on receipt of the names of Candidates licensed the Secretary of the Candidate Supervision Committee shall require of each Licentiate such information as the said Committee shall consider necessary and in such form as it may deem suitable. Only on receipt of this information shall the name of the Probationer or Licentiate be added to the Roll.

4. Probationary Period in Relation to Vacancies
(a) Every Probationer shall serve a Probationary Period as required by the Candidate Supervision Committee, with the exception of those granted exemptions by the said Committee. The Candidate Supervision Committee shall retain full details of the Charges or other Appointments in which Probationers are serving their Probationary Period.

(b) Probationers seeking a Charge shall be required to obtain the permission of the Secretary of the Candidate Supervision Committee before preaching as a candidate in a vacancy. They may preach as Sole Nominee or as one of a leet only after they have been officially informed by the Candidate Supervision Committee that their Probationary Period has been sustained, and they may be ordained and inducted only when the officiating Presbytery has sought and obtained the concurrence of the said Committee.

(c) The Candidate Supervision Committee shall compile and maintain a list of all Probationers seeking a Charge, together with such documentation, including a personal profile, as may be submitted to the Committee by each Probationer or Licentiate. The Committee shall send monthly to any eligible Licentiate and to Probationers whom the Committee has agreed might make application to Vacant Charges the list of current vacancies and appropriate appointments issued monthly to all ministers in charges and to any other minister who may request it, with in each case the name and address of a contact person.

(d) The Candidate Supervision Committee shall make available in a vacancy the complete list of available Probationers. On the request of the Interim Moderator a selected list based on knowledge of the expressed wishes of each Probationer or Licentiate shall be provided. Where a selected list is supplied, the names shall be accompanied by the appropriate personal profiles which may have been submitted to the Committee.

(e) The Candidate Supervision Committee shall keep a detailed record of the vacancies for which the names of Probationers have been submitted.

5. Procedures after Probationary Period

All Probationers or Licentiates whose names are on the Roll shall annually inform the Secretary of the Candidate Supervision Committee (a) of their address and of any changes in the information already supplied to the Committee (see Section 3 (c) above); (b) of whether or not they wish to have their name considered in connection with Vacant Charges; and (c) of any changes in their circumstances. Any Probationer or Licentiate who fails so to inform the Secretary of the Committee shall have his or her name removed from the Roll. Any Probationer or Licentiate whose name has been removed from the Roll may be restored to the Roll only by application to the Assessment Scheme Committee for a Certificate of Eligibility or by Petition to the General Assembly.

6. Earlier Legislation

(a) Act VII, 1985 is hereby repealed; and it is hereby provided that all other legislation prior to this Act shall be construed in conformity with the provisions of this Act.

(b) Notwithstanding the terms of Section 6 (a) above the repeal of the aforementioned Act shall not affect the operation of the said Act or Deliverances of the General Assembly in pursuance thereof prior to its repeal; and any right or obligation so required or incurred thereunder shall have effect as if the said Act had not been repealed.
The General Assembly enact and ordain as follows:-

1. The General Assembly, with reference to the provisions of the Church of Scotland (Property and Endowments) Acts and Orders 1925 to 1995 and of the title deeds of various properties, hereby nominate and appoint the Church of Scotland General Trustees, incorporated by the Church of Scotland (General Trustees) Order Confirmation Act 1921 (herein referred to wherever the expression “the General Trustees” is used) as the body to whom the General Assembly hereby delegate (but subject to the terms hereof) all the powers conferred upon or reserved to the General Assembly by (One) section 34(1)(g) (as substituted) and section 36 (as amended) of the Church of Scotland (Property and Endowments) Act 1925 Sections 1, 3, 4, 5, 6 and 8 of the Church of Scotland (Property and Endowments) Amendment Act 1933 (all as amended), and section 3 of the Church of Scotland (Property and Endowments) Amendment Order 1978 and all as amended by the Church of Scotland (Property and Endowments) Amendment Order 1995 and (Two) the terms of the titles of heritable properties where the trustees holding the same are, due to such terms, subject in any way to the regulation and direction of the General Assembly as regards the management and disposal of the properties or the proceeds of sale thereof as such terms are amended by the Church of Scotland (Property and Endowments) Amendment Order 1995 (declaring that such properties will include properties of congregations of the former Free Church of Scotland and congregations of the former United Free Church of Scotland where the title was taken in terms of the “Clauses for Congregational Titles” approved of for use in the case of properties acquired after 30th October 1900) – so that the General Trustees may hereafter be, but subject to the Regulations of the General Assembly anent the Application of Stipend and Fabric Endowments held by The Church of Scotland General Trustees, the sole determining body in relation to the powers hereby delegated. For the avoidance of any doubt, the powers hereby delegated will include, with the exception of matters comprised in the Regulations anent the Application of Stipend and Fabric Endowments held by The Church of Scotland General Trustees, the sole determining body in relation to the powers hereby delegated. For the avoidance of any doubt, the powers hereby delegated will include, with the exception of matters comprised in the Regulations anent the Application of Stipend and Fabric Endowments held by The Church of Scotland General Trustees, the purposes to which it is desired that any proceeds of sale be applied.

2. (1) Without prejudice to sections 3, 4 and 5 hereof, all applications to the General Trustees for a determination under the powers hereby delegated shall proceed from the Congregational Board or other body in a congregation having charge of the property of the congregation (any such body being herein referred to wherever the expression “the Financial Board of the congregation” is used) with the concurrence of the Kirk Session (and of the congregation in the case of applications for authority to sell or otherwise dispose of any church or hall building) and shall have obtained the sanction of the Presbytery of the bounds. Such applications shall state the reasons for the application and, in any case where the proceeds are not to be encompassed within the terms of the Regulations anent the Application of Stipend and Fabric Endowments held by The Church of Scotland General Trustees, the purposes to which it is desired that any proceeds of sale be applied.

(2) The General Trustees will be bound, upon making a determination hereunder, to intimate such determination forthwith by notice in writing to the Presbytery or...
Presbyteries concerned and also to the Financial Board or Boards of the congregation or congregations directly affected; on receipt by the Clerk of the Presbytery of the notice of the determination of the General Trustees, it will be his or her duty to give sufficient intimation of the same to the next ordinary meeting of Presbytery thereafter; any determination authorising the sale or disposal of property will be final and not subject to appeal; but notwithstanding the provisions of section 1 hereof, any Presbytery concerned or any Financial Board having title or interest may within two months of the date of the meeting of Presbytery to which intimation has been made as aforesaid and subject to compliance with the Standing Orders of the General Assembly, lodge with the Clerks of Assembly a Petition to the General Assembly for review of any such other determination; provided always that in such circumstances a review will be competent only if the Petition therefor is lodged timeously with the Clerks of Assembly and written intimation thereof given at the same time to the General Trustees.

3. With reference to section 2 hereof, in any case where, in the opinion of the General Trustees special circumstances obtain, including, without prejudice to that generality, the situation where the property or endowment under consideration is held for other than congregational purposes or a congregation has dissolved, an application may proceed otherwise than is provided in the said section; and the whole provisions of the said section, including those relative to determination and right of appeal, will have effect with regard to such application and determination, all with such modifications as may be appropriate in the circumstances.

4. With regard to glebe subjects, superiorities, ground annuals or, other such endowments vested in the General Trustees in consequence of the said Church of Scotland (Property and Endowments) Acts, the powers hereby delegated will include power to the said General Trustees to determine at any time that any such endowment will be sold or otherwise disposed of subject only to their consulting with the minister of the Parish and the Presbytery of the bounds in the case of the dominium utile of glebe subjects and with the Financial Board of the congregation in the case of any other endowment, the proceeds of sale or disposal being applied according to the provisions of the Regulations anent the Application of Stipend and Fabric Endowments held by The Church of Scotland General Trustees.

5. In the event of the General Trustees being of the opinion that any individual matter hereunder should be determined by the General Assembly or their Commission, they are empowered ex proprio motu to bring such matter before the Assembly or their Commission for determination.

6. Where any funds which are or may be subject to the terms of this Act or of the Regulations anent the Application of Stipend and Fabric Endowments held by The Church of Scotland General Trustees are to be applied in the purchase of any heritable property, the Solicitor and Law Agent of the Church or other person to whom the General Assembly have committed the custody of the titles of congregational properties referred to in section 1 hereof, is directed to see the transaction carried into effect and also to see that the title deeds of the new property are either (a) taken in such terms that the trustees holding the property will, as regards the management and also as regards the disposal of the same, be subject to the regulation and direction of the General Assembly
and that such trustees will (subject to such regulation and direction) have power to sell or otherwise dispose of the whole or any part of such new property and to burden the same with debt or (b) vested in the General Trustees.

7. Where any funds which are or may be subject to the terms of this Act or of the Regulations anent the Application of Stipend and Fabric Endowments held by The Church of Scotland General Trustees, are applied for fabric purposes, the capital of such funds shall be expended only on properties where the trustees holding the same are, in terms of the titles thereof, subject to the regulation and direction of the General Assembly as regards the management and disposal thereof or alternatively are the General Trustees.

8. It is hereby declared that any determination made under the powers hereby delegated and authorising the sale or disposal of property will (unless acted upon) lapse after a period of five years from the date thereof.


10. This Act will come into force on a day to be appointed by the General Trustees and intimated by them to each Presbytery of Church.
XII. VOWS OF CHURCH MEMBERSHIP ACT (ACT XII 1996)

Edinburgh, 22nd May 1996, Session 5.

The General Assembly enact and ordain that the following questions and responses are authorised for use in the services of worship incorporating Public Profession of Faith and Confirmation.

The Questions

*Earlier in the service the minister addresses the candidates, recalling their baptism:*

Do you believe the Christian faith into which we are baptised?

The candidates say together:

* I do

The minister then invites the congregation to stand and with the candidates to affirm the faith in the words of the Apostles’ Creed or other statement of faith.

*After the prayer of confirmation, the minister addresses the candidates in such words as:*

You have professed with us your faith in one God, Father, Son and Holy Spirit.

In your baptism God brought you into the household of faith, and in goodness and mercy has shepherded you to this day.

We ask you now to pledge yourself to a life of Christian discipleship:

Do you promise to follow Jesus Christ in your daily life?

With God's help

I will seek to follow Christ,

and in listening for God's Word,

in the breaking of bread, and prayer,

* to grow ever closer to him as the years pass.*

Do you promise to be a faithful member of the Christian community?

With God's help

I will share in the worship and service of the church,

and in this I will give generously

of what I am and what I have.

Do you promise to take your part in God's mission to the world?

With God's help

I will witness to Christ

wherever I find myself

and putting my trust and hope in him

I will seek justice and peace

and the renewing of all life according to God’s promise.

[Note: The responses may be put as questions by the Minister – ‘Do you promise, with God’s help …?’ – the candidate answering ‘With God’s help I will’.]

The minister then gives a charge to the congregation in such words as these:
I charge you,  
the people of this congregation,  
to love, encourage and support  
these our brothers and sisters in faith,  
that they may continue to grow  
in the grace of the Lord Jesus Christ  
and the knowledge and love of God.

The congregation responds:

With God’s help  
we will live out our baptism  
as a loving community in Christ:  
nurturing one another in faith,  
upholding one another in prayer,  
and encouraging one another in service.

Edinburgh, 17th May 1997, Session I.

(This Act is to be construed in conformity with Act VII 2003)

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

1. As from the date of this Act the General Assembly shall, at their closing session each year, appoint a Commission of Assembly, hereinafter referred to as “the Commission”, as herein provided, and each Commission shall continue in office until the next Commission is appointed.

Membership
2. The membership of the Commission shall be:

   (a) one tenth of the ministers and elders commissioned by Presbyteries to the General Assembly in that year, such Commissioners to be designated by the appointing Presbyteries in accordance with the rules set out in Schedule to the Appeals Act (Act I 2014).

   (b) one in ten or part of ten of the members of the Diaconate commissioned by Presbyteries to the General Assembly in that year, such members to be selected at random by the Clerks of Assembly.

   (c) members ex officiis of the General Assembly appointing the Commission, with the exception of the Moderator of the previous General Assembly, all of whom shall hold the same offices in the Commission as they did in the General Assembly.

Quorum
3. The quorum of the Commission shall be one-third of its total membership, and of this quorum at least one-third must be ministers and at least one-third must be elders.

Meetings
4. The Legal Questions Committee shall, if instructed by the General Assembly, and may at its sole discretion, on its own initiative, or on receipt of a request from any court of the Church or Committee of the General Assembly, or on receipt of a requisition signed by a quorum of the Commission, call a meeting or meetings of the Commission at such time or times as shall, in the opinion of the Committee, be justified by the proposed business, provided that meetings to hear cases which must be heard by the Commission in terms of Sub-section 5(d) below shall be called by the Principal Clerk in consultation with the Convener of the Business Committee, and should, as far as possible, be held in the months of October, February and May.

Powers
5. (1) The following powers are hereby delegated to the Commission, and this delegation to the Commission constituted in accordance with this Act is declared to be consistent with the law and practice of the Church hitherto and in accordance with the Articles Declaratory of the Constitution of the Church in Matters Spiritual as hereby interpreted by the Church:-

   (a) in the absence of the Moderator from any meeting, to choose their own Moderator
from their own number for that meeting;

(b) to dispose of any matter referred to them by or in view of any Act, order or deliverance of the General Assembly;

c) to dispose of any matter affecting the interests of the Church at home and abroad when the Church would be adversely affected by postponing consideration until the time of the next General Assembly;

d) to hear and dispose finally of:

(i) all appeals and dissents and complaints, with the exception of those delegated to the Judicial Commission but including those hitherto delegated to the Property Commission, and with the further exception of those delegated to the Ministries Appeals Panel in terms of Act VI 2007:

(ii) all references in terms of Act VII 2003;

(iii) all petitions which seek review of judgements of Presbyteries on the grounds that the Petitioners could not have come by appeal or dissent and complaint or have been obstructed in so doing by the Presbytery concerned; and the Legal Questions Committee shall for each such case appoint an Investigating Committee of not less than three and not more than five members to ascertain the facts of the case before the Commission is called to deal with it, and to report to the Commission; and it is expressly declared that the General Assembly themselves shall not hear or dispose of such cases nor shall the judgements of the Commission of Assembly thereon be subject to review by the General Assembly; provided that any case in which, in the opinion of the Commission, an important issue of principle is at stake may be referred by the Commission to the General Assembly;

(e) to hear and dispose finally of cases other than those in sub-section (d) above, including cases in which the General Assembly are the court of first instance, but excluding petitions for admission and re-admission of ministers; provided that any case in which, in the opinion of the Commission, an important issue of principle is at stake may be referred by the Commission to the General Assembly;

(f) to appoint representatives on behalf of the General Assembly where such appointments are required before the next General Assembly;

(g) to appoint a representative or representatives to present any matter referred by the Commission to the General Assembly.

(2) The Clerks of the General Assembly shall act as Clerks to the Commission of Assembly, though not members thereof, but the duties may be carried out by one of them. If neither of them is present, the Commission of Assembly shall appoint a substitute, whether or not a member thereof, to act as Clerk of the Commission during the sittings thereof, and the oath de fidei shall be administered to him or her and recorded.

Note: With effect from 18 May 2013, the provisions of section 5 should be interpreted subject to the provisions of the Appeals Act (Act I 2014).

Procedure

6. The Principal Clerk shall issue notices calling each meeting to each member of the Commission at least fourteen days before the meeting, such notices to contain intimation of the item or items of business and to be accompanied by all relevant papers.

7. When the meeting has been constituted, the Commission shall consider whether or not
to proceed with any or all of the items of business, provided that this option shall not apply to matters referred by the General Assembly in terms of Sub-section 5(b) nor to cases in terms of Sub-section 5(d); and it shall be competent for the meeting to add items of which notice has not been given, provided that the outcome will not be prejudiced by the lack of notice; and the agreement at this stage to proceed with any item shall be without prejudice to consideration of the question of competence when the item is dealt with.

8.  (1) Procedure shall be in accordance with the Standing Orders of the General Assembly so far as applicable and consistent with this Act.
(2) For the avoidance of doubt, cases shall be subject to the scrutiny of the Committee on Overtures and Cases in relation to questions of competency and relevancy.
   (a) The Committee may produce a report for inclusion in the papers distributed to Commission members and to parties, and make interim recommendations on process to parties and to the Investigating Committee.
   (b) In the event of the Committee transmitting the case without qualification, it shall not be necessary for a written report to be prepared.
   (c) Any report by the Committee shall be debated by the Commission of Assembly at the outset of the case, and parties given an opportunity to be heard in the course of such debate.

Relation to Legislation
9. The Commission shall act in accordance with the Constitution of the Church and the Acts of the General Assembly and nothing in this Act shall be construed as conferring power to contravene or amend existing legislation, or to legislate.

10. The decisions of the Commission being final, there shall be no right of appeal against them.

11. The Commission shall not have power to review any decision of the General Assembly unless, in the case of non-judicial decisions only, the Commission is fully satisfied that relevant circumstances have significantly changed.

12. The Commission shall be accountable to the General Assembly which may revoke any action in excess of the powers conferred by this Act.

Lower Courts
13. When a meeting of the Commission coincides with an ordinary meeting of a Presbytery or Kirk Session of which any member of the Commission is a member, such Presbytery or Kirk Session has permission to meet, but the priority for such member is to attend the Commission, and the Presbytery or Kirk Session shall not in the absence of such member transact any business which might be prejudicial to his or her interests.

14. All Presbyteries and Kirk Sessions shall comply with decisions of the Commission as if they were decisions of the General Assembly, as they shall be answerable to the next General Assembly.

Report to the General Assembly
15. The Legal Questions Committee shall report to the General Assembly all decisions
made by the Committee in terms of Section 4 of this Act, and any other matters in connection with the Commission which, in the opinion of the Committee, should be brought to the notice of the General Assembly.

16. The Minutes of all meetings of the Commission shall be submitted to the General Assembly through the Legal Questions Committee, in the Volume of Reports, or in the Order of Proceedings, or in the Daily Papers, and they shall be laid on the table, without discussion, provided that the General Assembly may take appropriate steps to consider and deal with any allegation that the Commission has acted in excess of the powers conferred by this Act.

Repeal
17. Act V 1981, and Act XIII 1992 are hereby repealed, and references in Act XIX 1992, and Regulations 1, 2 and 3 1992 to “the Property Commission” are amended to read “the Commission of Assembly”.
IX. NATIONAL LOTTERY ACT (ACT IX 1998)


The General Assembly enact and ordain as follows:-

Whereas the Church has in the past benefited from public funding, and such funding is increasingly financed by the National Lottery Revenues, all agencies of the Church are hereby authorised to determine for themselves whether or not to make application for or use of Lottery funding; provided that such agencies are nevertheless hereby

(a) discouraged from making such application or use, or both, of Lottery funding unless they are satisfied that no suitable alternative funding sources are available; and

(b) directed that the areas where such application or use, or both, may be made are the following:

(i) community work and cultural activities,
(ii) partnership ventures, and
(iii) work in relation to buildings, the General Trustees being hereby authorised, where appropriate to, approve such applications.
IV. CONGREGATIONAL VOWS AT INDUCTION ACT (ACT IV 1999) (AS AMENDED BY ACT VIII 2003)

Edinburgh, 8th May 1999, Session 1.

The General Assembly enact and ordain that the following questions are authorised for use in services of induction of a minister, and that Act section 29(3) of Act VIII 2003 shall be construed accordingly.

Brothers and sisters in Christ,
as you receive N.N. as your minister,
do you renew your allegiance
to Jesus Christ as your Saviour and Lord?
    We do.
Do you promise to share in the worship of the Church,
and to give generously for its work
at home and throughout the world?
    We do.
Do you undertake to support and encourage your minister
by prayers and by your friendship?
    We do.
Do you commit yourselves again
to be witnesses for Christ in this community
and to serve one another in love
through the power of the Holy Spirit?
    We do.

Edinburgh, 20th May 2000, Session 1


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 officiis.

   (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 thereanent 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 and Act I 2019, 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.

at that date.
V. SACRAMENTS ACT (ACT V 2000) (AS AMENDED BY ACT IX 2003)

Edinburgh, 20th May 2000, Session 1


The General Assembly enact and ordain as follows:–

Administration of the Sacraments

1. The Sacraments of the Church may be administered only by the following persons:–
   (1) a person who has the status of a minister of the Church of Scotland and who (a) has been ordained by a Presbytery of the Church of Scotland; or (b) has been inducted to a charge of the Church of Scotland; or (c) has been admitted by the General Assembly as a minister of the Church of Scotland;
   (2) a person who has the status of an ordained minister of the United Reformed Church in England and Wales or any Presbyterian Church in Great Britain or elsewhere, whose Constitution is in agreement with the doctrine and practice of the Church of Scotland and who has been duly authorised to administer the Sacraments by the Presbytery of the bounds. Such authority may be given only in special circumstances (e.g. locum tenens, exchange minister) of which the Presbytery shall be the sole judge.
   (3) a person who has the status of an ordained minister of one of the Lutheran and Reformed Churches in Europe along with Union Churches which grew out of them, and the related pre-Reformation Churches, the Waldensian Church and the Church of the Czech Brethren, and who has been duly authorised to administer the Sacraments by the Presbytery of the bounds; such authority may be given only in special circumstances (e.g. locum tenens, exchange minister) of which the Presbytery shall be the sole judge;
   (4) a person who has the status of an ordained minister of a non-Presbyterian Church who has obtained a certificate issued on the authority of the Ministries Council to the effect that his or her ordination is in accordance with the standards of the Church of Scotland, and who has been duly authorised to administer the Sacraments by the Presbytery of the bounds. Such authority may be given only in special circumstances (e.g. locum tenens, exchange minister) of which the Presbytery shall be the sole judge.

2. Notwithstanding the foregoing provisions, ministers of the Church of Scotland may occasionally invite ministers of other Churches whose orders are in accordance with the standards of the Church of Scotland to administer the Sacraments. Any minister whose invitation to a minister of another Church in terms of this section has been accepted shall intimate the same in writing to the Clerk of Presbytery within fourteen days thereafter.

Administration of Baptism

3. Baptism signifies the action and love of God in Christ, through the Holy Spirit, and is a seal upon the gift of grace and the response of faith.
   (a) Baptism shall be administered in the name of the Father and of the Son and of the Holy Spirit, with water, by sprinkling, pouring, or immersion.
   (b) Baptism shall be administered to a person only once.

4. Baptism may be administered to a person upon profession of faith.
(a) The minister and Kirk Session shall judge whether the person is of sufficient maturity to make personal profession of faith, where necessary in consultation with the parent(s) or legal guardian(s).

(b) Baptism may be administered only after the person has received such instruction in its meaning as the minister and Kirk Session consider necessary, according to such basis of instruction as may be authorised by the General Assembly.

(c) In cases of uncertainty as to whether a person has been baptised or validly baptised, baptism shall be administered conditionally.

5. Baptism may be administered to a person with learning difficulties who makes an appropriate profession of faith, where the minister and Kirk Session are satisfied that the person shall be nurtured within the life and worship of the Church.

6. Baptism may be administered to a child:
   (a) where at least one parent, or other family member (with parental consent), having been baptised and being on the communion roll of the congregation, will undertake the Christian upbringing of the child;
   (b) where at least one parent, or other family member (with parental consent), having been baptised but not on the communion roll of the congregation, satisfies the minister and Kirk Session that he or she is an adherent of the congregation and will undertake the Christian upbringing of the child;
   (c) where at least one parent, or other family member (with parental consent), having been baptised, professes the Christian faith, undertakes to ensure that the child grows up in the life and worship of the Church and expresses the desire to seek admission to the communion roll of the congregation;
   (d) where the child is under legal guardianship, and the minister and Kirk Session are satisfied that the child shall be nurtured within the life and worship of the congregation;

   and, in each of the above cases, only after the parent(s), or other family member, has received such instruction in its meaning as the minister and Kirk Session consider necessary, according to such basis of instruction as may be authorised by the General Assembly.

7. Baptism shall normally be administered during the public worship of the congregation in which the person makes profession of faith, or of which the parent or other family member is on the communion roll, or is an adherent. In exceptional circumstances, baptism may be administered elsewhere (e.g. at home, in hospital). Further, a minister may administer baptism to a person resident outwith the minister’s parish, and who is not otherwise connected with the congregation, only with the consent of the minister of the parish in which the person would normally reside, or of the Presbytery.

8. In all cases, an entry shall be made in the Kirk Session’s Baptismal Register and a Certificate of Baptism given by the minister. Where baptism is administered in a chaplaincy context, it shall be recorded in the Baptismal Register there and, where possible, reported to the minister of the parish in which the person resides.

9. Baptism shall normally be administered by an ordained minister. In situations of emergency (a) a minister may, exceptionally, and notwithstanding the preceding
provisions of the Act, respond to a request for baptism in accordance with his or her pastoral judgement, and (b) baptism may be validly administered by a person who is not ordained, always providing that it is administered in the name of the Father and of the Son and of the Holy Spirit, with water. In every occurrence of the latter case, of which a minister or chaplain becomes aware, an entry shall be made in the appropriate Baptismal Register and where possible reported to the Clerk of the Presbytery within which the baptism was administered.

10. Each Presbytery shall form, or designate, a committee to which reference may be made in cases where there is a dispute as to the interpretation of this Act. Without the consent of the Presbytery, no minister may administer baptism in a case where to his or her knowledge another minister has declined to do so.

11. The Church of Scotland, as part of the Universal Church, affirms the validity of the sacrament of baptism administered in the name of the Father and of the Son and of the Holy Spirit, with water, in accordance with the discipline of other members of the Universal Church.

Admission to the Lord's Table

12. The Lord's Table is open to any baptised person who loves the Lord and responds in faith to the invitation "Take, eat".

13. In accordance with the law and practice of this Church a Kirk Session is obliged to test the response in faith of a baptised person before authorising admission to the Lord's Table. The Kirk Session requires to be satisfied that the baptised person has received instruction in the faith and order of the Church, is of Christian character and is ready to make public profession of faith, whereupon such person is admitted to the Lord's Table and his or her name is added to the Communion Roll of the congregation.

14. Notwithstanding the terms of Section 13 above there is nothing in the law of the Church which would automatically disqualify a person with learning difficulties from admission to the Lord's Table and from having his or her name added to the Communion Roll of a congregation.

15. Notwithstanding the terms of Section 13 and recognising the free discretion of the Kirk Session in this matter, where a Kirk Session is satisfied that baptised children are being nurtured within the life and worship of the Church and love the Lord and respond in faith to the invitation "take, eat", it may admit such children to the Lord's Table, after pastorally overseeing the response of faith of such children to see when it is right for them to come to the Lord's Table. The names of such children shall be admitted to the Communion Roll of the congregation when they have made public profession of their faith.

16. For the avoidance of doubt:
   (1) The Sacrament of the Lord's Supper shall normally be celebrated in Church at stated times determined by the Kirk Session.
   (2) The Sacrament of the Lord's Supper may be administered privately in Church or elsewhere at the discretion of a minister.

17. The elders normally assist the minister in the distribution of the elements at the Lord's
Supper.

VI. COMMUNION ROLLS ACT (ACT VI 2000)

Edinburgh, 20th May 2000, Session 1


The General Assembly enact and ordain:–

Communion Rolls
1. There shall be a Communion Roll, made up and kept by the Kirk Session of every parish, containing the names and addresses of the communicants. A record shall be kept in this Roll of the dates:
   (1) of enrolment
      (a) by profession as First Communicants
      (b) by receipt of Certificates of Transference
      (c) by special resolution of the Kirk Session
   (2) of removals
      (a) by death
      (b) by issue of Certificates of Transference
      (c) by special resolution of Kirk Session.

2. For the purposes of attestation by the Presbytery, Communion Rolls kept manually shall be submitted in their entirety.

Communion Rolls on Computer
3. A Congregation's Communion Roll may be kept on computer provided that an up-to-date printout of the Roll as at 31st December, duly attested by the Kirk Session, is produced at the annual inspection of records.

4. The printout shall contain the names and addresses, with date and manner of admission, of all members as at 31st December of the year under inspection. It shall also contain an appendix recording the names and addresses of people who have been removed from the Roll during the year, along with the date, reason and means of removal. The form and style of the printout shall be approved by the Superintendence Committee, or other committee appointed by the Presbytery for this purpose, before it first comes into use, and the committee shall report such approval to the Presbytery.

5. After attestation by the Presbytery, annual printouts shall be kept as historical records, and shall be preserved in a substantial loose-leaf binder, or permanently bound at intervals not exceeding ten years.

6. Kirk Sessions proposing to store data in a computer must ensure before doing so that the requirements of the Data Protection Act will be satisfied, and to this end they should record their intent with the Presbytery Clerk.

Certificates of Transference
7. A communicant's name shall be transferred from the Communion Roll of one congregation to that of another congregation only by a Certificate of Transference,
such certificate shall not entitle to enrolment after the expiry of one year from the date which it bears. A Kirk Session receiving a Certificate after the period of validity has expired shall investigate the circumstances carefully and may thereafter resolve to add the name of the person concerned to the Communion roll or to take such other action as it shall deem appropriate.

In the case of persons presenting Certificates of Transference, the date of enrolment shall be the date of lodging the certificate; and, in other cases, it shall be the date of the resolution of the Kirk Session to add the name to the Roll. The date of removal shall be the date of death, or the issue of a Certificate of Transference, or of a resolution of the Kirk Session to remove the name.

**Annual Revision and Pastoral Oversight**

8. The Kirk Session shall revise and attest the Communion Roll, as at 31st December in each year, the attestation to include a statement of the number of names on the Roll after revision, and shall at the same meeting make an entry in the Minutes that it did so. It is recommended that intimation be given from the pulpit on each of the two preceding Sundays that this procedure is to be taken.

9. At the annual revision of the Communion Roll the question of adherence to vows of Church membership shall be raised in the case of any person who during the year under review, without obvious and sufficient reason, has not, in the opinion of the Kirk Session, shown sufficient interest or taken an adequate share in the worship, mission and service of the Church. In the case of every such person whose address is known, the question shall be raised personally.

10. If any person with whom the question of adherence to vows has been raised does not respond in a manner satisfactory to the Kirk Session, the Kirk Session may remove the name of such person from the Communion Roll at the next annual revision. The names of persons whose names have been removed from the Roll under this Section shall be recorded in the Minutes and may be restored to the Roll only by resolution of the Kirk Session.

11. The Kirk Session, with a view to lessening the danger of lapsing from Church connection, shall issue to every member in full Communion when leaving, or immediately after leaving, the parish or district to take up residence elsewhere, a Certificate of Transference, unless the communicant has expressed a definite desire to retain his or her connection with the congregation and the minister and Kirk Session are prepared to accept pastoral responsibility for him or her; and, if their destination be known, shall intimate accordingly, either to the minister of the parish within which the communicant is going, or has gone, to reside, or to the Presbyterial Correspondent. Kirk Sessions receiving Certificates of Transference shall acknowledge receipt of the same to the Kirk Session which has issued them.

12. (1) The Kirk Session, with a view to continued supervision, shall keep a Supplementary Roll, on which shall be placed the names of those who have been removed from the Communion Roll without a Certificate of Transference and who continue to reside in the parish or district. The Supplementary Roll shall be revised and attested annually.

(2) While persons whose names have been placed on the Supplementary Roll of a
congregation have had their names removed from the Communion Roll of that congregation, they are in no way debarred from being admitted to the Sacrament of the Lord's Supper if they so desire, nor from being restored to the Communion Roll of a congregation by special resolution of the Kirk Session.

(3) Persons whose names have been placed on the Supplementary Roll are not eligible to be elected as office-bearers, nor to take part in, nor vote in Congregational Meetings. They may be admitted on application to the Electoral Register.

(4) Persons whose names are on the Supplementary Roll and who remove to another parish should have their names removed from the Roll and intimation sent to the minister of the parish to which they have gone to reside.

13. It is the duty of the Kirk Session to exercise pastoral care throughout the parish and to take due account of persons who have no connection with any Church.

Attestation by Presbytery
14. The Communion Roll and Supplementary Roll shall be submitted once a year to the Presbytery of the bounds for attestation, and Presbyteries are enjoined to see that each Kirk Session keeps a Communion Roll and Supplementary Roll in terms of this Act, and submits the same annually to the Presbytery.

15. Notwithstanding anything contained in this Act, access to the Lord’s Table shall not be refused to any person who desires to communicate, provided such person has previously been admitted a member in full communion and is not under discipline by a court of the Church.

16. The right of the Kirk Session to admit to the Lord’s Table a member of any Christian Church is expressly affirmed.

17. This Act shall come into force on 1 January 2001 and Acts XXIII 1933, VI 1938 (as amended by Acts I 1972, IV 1977 and III 1991), VI 1951 and Regulations IV 1964 and I 1996 shall be repealed as at that date.

Edinburgh, 24th May 2000, Session 6

Interpretation
1. For the purposes of this Act, the following terms shall be deemed to have the meanings hereby assigned to them:

   “The EMTG” shall mean the Emerging Ministries Task Group of the Ministries Council.
   “The PPTG” shall mean the Presbytery Planning Task Group of the Ministries Council.
   “The Presbytery” shall mean the Presbytery of the bounds of the New Charge or charge concerned.
   “A New Charge” shall mean a new or newly established sphere of pastoral duty which shall be subject to the special legislative arrangements herein set out, which shall be a Reviewable Charge and which shall (except where the context indicates otherwise) include (a) a New Charge where there has been no previous congregation in existence and (b) a changed status New Charge. The New Charge may or may not have responsibility for a territorial parish area, but, in the event that the New Charge is not assigned a parish area, the entitlements and responsibilities of the congregations and ministers of any parishes in which the New Charge is operating shall not be affected, except by a regular process of adjustment in terms of Act V 2003.
   “A changed status New Charge” shall mean a New Charge where, prior to its constitution as such, there has been a congregation having full status (“the parent congregation”) which has resolved at a Congregational meeting called for that purpose, that it shall adopt the status of, and be constituted as, a New Charge, whether in the same or a different place, and whether or not involving a change of parish boundaries or a transportation to a new parochial area.
   “A New Charge congregation” shall mean a company of persons associated together for Christian worship, fellowship, instruction, mission and service in a New Charge parish whose names are on the Roll of Communicants and Adherents kept for the congregation, and who are under the pastoral oversight of a minister or ministers appointed as herein provided and under the pastoral and temporal oversight of a New Charge Commission.
   “A New Charge Commission” shall be a body constituted in terms of Sections 7 and 8 hereof, and having the powers and duties therein provided.
   “The New Charge Core Group” shall be a group constituted in terms of Section 9 hereof, and having the powers and duties therein provided.
   A “New Charge Mission Design” shall mean the written plan to be worked up by the New Charge Commission, to set out the steps to be taken initially to develop the New Charge, but which shall not include matters relating to the provision or maintenance of buildings.

Preliminary Steps
2. At the request of the Presbytery of the bounds, or of the EMTG, or on its own initiative, the PPTG shall determine whether a New Charge is needed and should be constituted. Prior to determining finally to constitute a New Charge, the PPTG shall consult with and obtain the concurrence of:
   (a) the Ministries Council, with respect to any required re-allocation of endowments;
(b) the Church of Scotland General Trustees, in the event of any property or funds vested in or held by the Church of Scotland General Trustees being affected, or in the event of any property being subject to the control of the General Assembly;

(c) the Council of Assembly and the Ministries Council, in the event of any question arising with regard to accumulated shortfalls to central funds, to the extent that these had been declared by the Presbytery to be unjustified.

3. Thereafter a detailed Basis of New Charge (appropriately adapted to fit the circumstances applicable) shall be drawn up by the Presbytery.

In the case of a changed status New Charge, the terms of the Draft Basis shall be negotiated with the office-bearers of the congregation or congregations concerned, and afterwards presented to meetings of the congregation or congregations, and then, if thereat approved, to the Presbytery for its concurrence, declaring that no Basis affecting the rights of a minister shall be presented to his or her, or any other, congregation, without his or her prior written consent. The Presbytery, with the concurrence of the PPTG, may resolve that a Church Extension Charge adopts the status and is constituted as a New Charge, provided that this has been previously approved at a Congregational meeting called for that purpose, and that the Minister of the Charge has given his or her approval; it being declared that no formal Basis of New Charge will, in such a case, require to be drawn up and approved.

4. The Presbytery, following upon approval of the Basis by it and by the PPTG, shall then proceed to delimit the bounds of the New Charge, and the EMTG shall proceed to appoint the New Charge Commission and, if a name therefore has not yet been selected, shall name the New Charge. Where the New Charge is vacant, the EMTG shall further proceed to appoint the Minister.

5. In the case of a changed status New Charge, it is declared, for the avoidance of any doubt, that on the New Charge being constituted, the legal identity of its parent congregation (notwithstanding the dissolution of the Kirk Session and the Financial Board thereof) shall be continued within the New Charge, which shall, except in so far as otherwise provided for herein or in the Basis of New Charge, assume all rights and responsibilities of the parent congregation, and to which shall continue to belong all property and funds belonging to, or held for, the parent congregation.

6. It is further declared that New Charges are constituted and shall operate and function in accordance with the settled law and practice of the Church, except where any provision or arrangement herein cannot be so construed and which shall accordingly be deemed an exception thereto and be interpreted as such.
New Charge Commission

7. (1) The New Charge Commission shall consist of five (5) to seven (7) members, appointed by the EMTG in consultation with the Presbytery. The New Charge Commission may co-opt other members who shall be entitled to speak, but not to vote.

(2) The charge shall be deemed to have been constituted at the point at which the New Charge Commission is constituted.

(3) The EMTG shall appoint the Convener of the Commission.

(4) At its first meeting the Commission shall:
   (a) appoint a Secretary;
   (b) ensure that the Presbytery has provided adequate arrangements for (i) the continuing Church membership of members of the prior congregation and (ii) the provision of the ordinances of religion within the territorial area (if any) of the New Charge until the establishment there of a new ministry.

8. (1) The purpose of the Commission shall be:
   (a) to offer to the New Charge, strategic oversight appropriate to its formation and the
   (b) to offer to the minister and other members of staff, pastoral support and a mechanism of accountability.

(2) The remit of the New Charge Commission shall be:
   (a) to plan, in consultation with the EMTG and the Minister of the New Charge, its initial development;
   (b) to form the New Charge Core Group provided for in Section 9 hereof;
   (c) to provide pastoral support to the Minister and pastoral oversight of the New Charge congregation and undertake the functions exercised by a Kirk Session and a Financial Board in a congregation having full status, until such time as any such functions are delegated or transferred by the Commission to the New Charge Core Group; such delegation or transfer to occur as and when the Commission considers it appropriate, and in the case of the administration of Congregational and other funds, only following upon the appointment by the New Charge Core Group of a Treasurer to be responsible for the keeping of detailed accounting records and the preparation of annual accounts;
   (d) to supervise the New Charge Core Group in relation to such financial and other matters as may have been entrusted to it by the Commission, and to appoint annually, auditors to inspect the accounts;
   (e) to review its work on a regular basis, at least twice per annum, and to report to the EMTG and to the Presbytery through the appropriate Presbytery Committee;
   (f) to carry out such other functions as may from time to time be delegated to it by the EMTG.

The New Charge Core Group

9. The New Charge Core Group shall be formed from members of the New Charge congregation, and shall be entitled to appoint one of its number to the Presbytery, such person having the status of being a corresponding member thereof. Vacancies shall be filled and new appointments made by the Commission from time to time as may be
required. The New Charge Core Group shall have such powers and shall undertake such duties as are from time to time delegated or transferred to it by the Commission.

Appointment of Ministers

10. (1) The appointment of the Minister of a New Charge where no congregation exists or has yet been gathered, shall be made by the EMTG in terms of Appendix A. In all such cases, the appointment shall be made only after the name of the minister nominated by the EMTG has been submitted to the Presbytery and it has agreed to sustain his or her appointment.

(2) In the event of the Minister nominated being unacceptable to the Presbytery, the EMTG shall nominate another Minister and the same procedure shall be followed as with the first nomination.

(3) Should the second nominee also prove unacceptable to the Presbytery, the Presbytery shall appoint a small sub-Committee to consult directly with the EMTG; the two bodies to act jointly in selecting a suitable minister who shall be appointed to the Charge.

(4) On the occurrence of a vacancy, the provisions of Acts VII and VIII 2003 shall apply, mutatis mutandis.

11. The Presbytery shall induct the Minister to the New Charge on the understanding it is a Reviewable Charge.

12. In the case of ministerial appointments where a congregation exists or has been gathered, the procedure set out in Appendix B shall apply.

13. In the event of the Minister appointed being a probationer or Graduate Candidate, the Presbytery shall take the necessary steps for ordination, if required, and induction to the New Charge.

14. The Minister shall be responsible to the EMTG for the development of the Charge. The EMTG shall be responsible for the provision of learning opportunities and professional development for ministers in New Charges, and shall report the development or alteration of such provision to the General Assembly.

15. He/she shall have a seat in Presbytery and shall be responsible to the Presbytery for matters of life and doctrine.

Financial Arrangements and Responsibilities

16. The stipend payable to the minister of a New Charge shall be the stipend to which he or she would be entitled under the prevailing stipend structures.

17. The EMTG may, if appropriate, fix a budget annually to meet the cost of developing the mission of the New Charge, and shall remit the amount concerned to the New Charge Commission. The Commission shall be responsible for administering this, together with other Congregational funds held locally, until such time as the Commission deems it appropriate to delegate said administration to the New Charge’s Core Group.

18. It is the expectation that a New Charge congregation shall, as soon as possible after its constitution, start to assume responsibility for meeting regular expenses. A Financial
Plan setting out a planned programme for the meeting by the New Charge congregation of its financial obligations shall be agreed by the Ministries Council and shall be reviewed every three years. The said financial obligations shall include:

(a) the remitting to the General Treasurer the agreed contribution to the Ministries and Mission Funds;
(b) the funding of the Missionary Outreach of the congregation;
(c) the repayment of the proportion, as fixed by the Ministries Council, of the cost incurred by it in providing buildings for the New Charge.

19. Until such time as the outstanding liabilities of the New Charge or former New Charge to the EMTG have been repaid, the New Charge or former New Charge shall submit a copy of the Annual Statement of Accounts, as submitted to the Presbytery, to the EMTG.

20. Review Procedure
   (1) Reviews of the operation of the New Charge shall be carried out by the EMTG in consultation with the PPTG and the Presbytery.
   (2) An interim review shall be carried out at the beginning of the third year of the life of the charge, so as to establish clear goals for the review conducted in terms of subsection (4).
   (3) To assist it with the fulfilment of its duties under Act VII 2003, the Presbytery may request the EMTG to initiate a review, the review to be carried out at the discretion of the EMTG.
   (4) It shall be normal for both the charge and the tenure of the minister to be reviewed six months prior to the fifth and tenth anniversaries.
   (5) All reviews shall be carried out by two representatives of the EMTG, one minister with New Charge experience (not from within the same Presbytery as the New Charge under review) and one Presbytery representative who is not otherwise involved with the charge under review.
   (6) The reviews will focus on recognising the establishment of: leadership, mission initiatives, training and nurturing, functional growth structures and a sense of community building.
   (7) The report of any review shall be issued to the EMTG to consider the future of the charge. It shall be the responsibility of the EMTG to decide whether or not the New Charge under review should continue.
   (8) If it is considered that the New Charge should continue, an extract shall be submitted to the PPTG requesting its concurrence for the continuation of the appointment and charge.
   (9) If it is considered that the New Charge should not continue, unless otherwise determined in consultation between the EMTG and the Presbytery, the charge shall be returned to the Presbytery. Thereafter the terms of Act VII 2003 shall apply.

Provision of and Arrangements for Buildings and Facilities
21. Where the New Charge has no suitable existing place of worship or manse, the EMTG shall take steps to provide suitable buildings for the New Charge, if appropriate. Any building contract relating to the erection of a new building shall run in the name of the EMTG and the title to all heritable property acquired or pertaining to the New Charge shall be vested in, or transferred to, the Church of Scotland General Trustees.
22. The EMTG shall be entitled to sell any redundant heritable property of the New Charge and to apply the sale proceeds towards the acquisition costs of any new buildings, with the balance, if any, to be held and applied by the EMTG as a fund for the maintenance of the properties of the New Charge (“the Building Fund”). Where there are funds credited for the benefit of a parent Congregation of the New Charge in the Consolidated Fabric Fund, the Church of Scotland General Trustees shall transfer these to the EMTG to be amalgamated with or to form ‘the Building Fund’. In the event of the EMTG, with the concurrence of the Presbytery and the Church of Scotland General Trustees, determining that the Building Fund is in excess of the fabric requirements of the New Charge and if the stipend of the New Charge is considered by the EMTG to be inadequately endowed, an appropriate allocation will be made from the Building Fund to its stipend endowment. Any surplus remaining shall be the subject of discussion with the General Trustees and may, subject to the General Trustees’ concurrence, be allocated to the ordinary funds of the EMTG and used in connection with its general work.

23. Regulations 7 1995, applicable to the Consolidated Fabric Fund, shall be amended to facilitate the provision of section 22 hereof.

24. The EMTG shall be responsible for the maintenance and insurance of all the heritable properties of the New Charge and for all other outgoings with respect thereto.

25. The EMTG shall commission and obtain professional reports on the condition of the ecclesiastical properties of each New Charge five years after its constitution and thereafter at intervals of not more than five years from the date of the previous report. Copies of the said reports, which shall be similar in form and content to principal reports commissioned in terms of the Section 8 of the Act anent the Care of Ecclesiastical Properties (Act IX 1979) shall be forwarded to the Presbytery and the Church of Scotland General Trustees.

Application for Full Status

26. It shall be open to a New Charge to apply for full status at any time, normally after it has been in existence for five years and in any event before the eleventh anniversary of its constitution. It shall be open at any time to the Presbytery to take the initiative towards the erection to full status of any New Charge within its bounds, and in all cases the permission of the Presbytery shall be required (subject to the normal rights of appeal).

27. An application by a New Charge for full status shall be submitted in the first instance to the Presbytery of the bounds and the EMTG. If the Presbytery approves the application, or itself initiates the application, it shall forward to the EMTG such information regarding the life and witness of the New Charge as it considers relevant.

28. The EMTG, on receipt of the Application, shall consult with the Church of Scotland General Trustees so that the General Trustees may inspect the buildings of the New Charge to establish whether they are in a satisfactory state of repair. The Application for full status shall proceed only once the General Trustees have indicated their satisfaction with the buildings. The EMTG shall provide the sum of £2,000 or such other sum as the EMTG, in consultation with the Church of Scotland General Trustees, may from time to time fix to provide the nucleus of a Fabric Fund to which sum shall be added (i) an
equivalent amount from the Congregation; (ii) such sum as the Baird Trust may make available; and (iii) the Building Fund (if any).

29. There shall be transmitted thereafter by the EMTG to the Ministries Council the following documents:
   (a) A Report from the EMTG containing such information regarding the Charge as shall enable the Ministries Council to make a judgement as to whether it is appropriate that it should be granted full status, including a note of the name of the parish, the form of constitution upon which the parish shall operate, and the Presbytery to which it shall belong upon erection to full status;
   (b) An Extract Minute of the Church of Scotland General Trustees concurring in the proposals;
   (c) A full description of the boundary of the parish to be erected to full status.

In all cases, the New Charge, on obtaining full status, shall be constituted either in terms of the Model Deed of Constitution or the Unitary Constitution, as determined by the EMTG in consultation with the Core Group and the Presbytery.

30. The Ministries Council shall thereafter decide whether to erect the charge to full status, and any resolution to do so shall contain the date upon which the resolution shall take effect, and confirmation of the name of the parish, the form of its constitution, the Presbytery to which it shall belong and the authoritative description of its boundaries.

31. The Solicitor of the Church shall, under the direction of the Delegation, then proceed with the preparation and issue of the Deed of Constitution for the Charge.

32. The whole expenses incurred shall be borne in equal shares by the congregation and by the EMTG.

33. On the New Charge attaining full status, the EMTG's responsibilities and rights of oversight of the Congregational properties shall cease except for any existing financial obligations in respect of new buildings. The Presbytery shall make formal intimation of the change of status to the congregation and shall take such other steps in connection therewith as may seem to the Presbytery appropriate, which shall in all cases include (i) an act of worship and (ii) such adjustment of the boundaries of neighbouring charges as is necessitated by the erection of the New Charge to full status.

34. On the New Charge attaining full status, the EMTG's responsibilities and rights of oversight of the Congregational properties shall cease, except for any existing financial obligations in respect of new buildings. The Presbytery shall make formal intimation of the change of status to the congregation and shall take such other steps in connection therewith as may seem to the Presbytery appropriate.

35. For the avoidance of doubt, this Act shall apply to New Charges constituted on or after 11 May 1999.

36. The EMTG will be responsible for formulating and updating guidelines for all areas of its work.
37. Regulations 3 1999 are hereby repealed.

**APPENDIX A**

The appointment of a minister of a New Charge Development in terms of section 10 of this Act shall use the following process.

1. Four members of the NCD Committee shall be appointed to the Nominating Committee as soon as the vacancy is intimated in order

   (a) to oversee the Nomination Process;
   (b) to arrange for consultation with the New Charge Commission and the Mission Developments Facilitator on the profile of the new Minister;
   (c) to ensure Presbytery representation on the Panel.

2. The Nominating Committee shall consist of the aforesaid four members from the Committee, one Presbytery representative, one New Charge Commission representative and one other deemed appropriate to the panel. In the first instance it shall

   (a) confirm the profile of the person to be appointed;
   (b) agree on the recruitment process and timetable.

3. Candidates shall be invited to conduct worship in the presence of, the Mission Developments Facilitator and representatives of the Nominating Committee chosen by the Committee for that purpose. After the interviewing group has met the candidate a written report shall be submitted by them to the Nominating Committee.

4. Candidates shall be interviewed by the full Nominating Committee and the successful candidate thereupon invited to take up the charge (on the understanding it is a Reviewable Charge) subject to fulfillment of the requirements of the Protection of Vulnerable Groups Act (Act VII 2011) and approval by Presbytery of the appointment.

**APPENDIX B**

The appointment of a minister of a New Charge Development in terms of section 12 of this Act shall use the following process:

1. Four members of the NCD Committee shall be appointed to the Nominating Committee as soon as the vacancy is intimated in order to oversee the Nomination Process:

   (a) to arrange for appropriate consultation with the congregation on the profile of the new Minister;
   (b) to agree appropriate Congregational representation on the Nominating Committee, being an odd number between three and seven according to the size and resources of the congregation;
   (c) to ensure Presbytery representation on the Panel.
2. The Convener of the New Charge Commission shall be invited to arrange for the nomination and election of the required number of representatives from the existing congregation according to the provisions of Act VIII 2003.

3. The Nominating Committee shall prepare a parish profile in consultation with the New Charge Core Group, Mission Developments Facilitator, parish staff and other appropriate Congregational leaders.

4. The Nominating Committee shall consist of the aforesaid four members from the Committee, one Presbytery representative, one New Charge Commission representative and the Congregational representatives referred to in 1(b) above. In the first instance it shall
   (a) confirm the profile of the person to be appointed;
   (b) agree on the recruitment process and timetable.

5. Candidates shall be invited to conduct worship in the presence of, the Mission Developments Facilitator, the Congregational representatives and one other representative of the Nominating Committee chosen by the Committee for that purpose. After the interviewing group has met the candidate a written report shall be submitted by them to the Nominating Committee.

6. Candidates shall be interviewed by the full Nominating Committee, which shall appoint a Nominee who shall be elected and called by the congregation in terms of sections 21-25 of Act VIII 2003, mutatis mutandis, and thereupon invited to take up the charge (on the understanding it is a Reviewable Charge) subject to fulfillment of the requirements of the Protection of Vulnerable Groups Act (Act VII 2011) and approval by Presbytery of the appointment.

APPENDIX C

ACT ANENT ERECTING NEW CHARGE TO FULL STATUS

Edinburgh … May 20…., Sess. …

The General Assembly enact and ordain as follows:

1. Disjoin an area from the Parishes of …………………………………………………. and ………………………………. in the Presbytery of ……………………………. situated approximately in the ……………………………. and ……………………………. parts of the said Parishes respectively and the boundaries of which are more particularly described in the Minute of the said Presbytery dated ……………………………. provided always that the Presbytery of ……………………………. shall have power to revise or alter the boundaries of the said area from time to time.

2. Erect the said area so disjoined into a Parish of the Church of Scotland to be called the Parish of ………………………………………, and designate the said Church to be the Church of the said Parish.
3. Declare the said Parish of ………………………….. to be wholly within the jurisdiction of the Presbytery of …………………………….

4. Find and declare that the Minister and Elders of the said Church and Parish as so erected shall have and enjoy the status and have all the powers, rights and privileges of a Parish Minister and Elders in connection with the Church of Scotland and shall form together the Minister and Kirk Session of the said Parish.

5. Provide and declare that any existing rights of the Ministers of the Parishes of ………………………….. and ………………………. shall in no way be affected by the erection of the said Parish of …………………………..

6. Appoint as a Constitution for the said Parish the form of the Model Deed approved by the General Assembly by Act II 1994/ Deed of Unitary Constitution [delete as appropriate] as applicable to the new Parish and remit to the Delegation of the General Assembly to execute and deliver the same after it is satisfied as to the vesting of the Church, Hall and Manse and endowment for stipend and fabric all in terms of Act XIII 2000; provided always as is hereby specially provided and declared that this Act shall not come into operation until the date of issue of the said Deed of Constitution.
The General Assembly, with the consent of a majority of Presbyteries, enact and ordain as follows:

Part 1 Introduction

1. (1) For the purposes of this Act:
   (a) “Disciplinary offence” shall mean
       (i) conduct which is declared censurable by the Word of God, Act of the General Assembly or established custom of the Church or
       (ii) a breach of a lawful order of any court of the Church.
   (b) “investigatory proceedings” shall mean those proceedings carried out in accordance with the provisions of Part 3 of this Act in respect of any disciplinary offence alleged to have been committed by a Minister, Licentiate, Graduate Candidate or Deacon.
   (c) “disciplinary proceedings” shall mean those proceedings carried out in accordance with the provisions of Part 4 of this Act in respect of any disciplinary offence alleged to have been committed by a Minister, Licentiate, Graduate Candidate or Deacon.
   (d) “Special Committee of Presbytery” shall mean a Committee of three persons appointed from the Judicial Proceedings Panel in terms of section 4(1) of whom at least one will be a minister and one an elder.
   (e) “The Judicial Proceedings Panel” shall mean a list of ministers, elders or deacons duly appointed by the General Assembly, through the nomination procedure. In making appointments to the Judicial Proceedings Panel, the General Assembly’s Nomination Committee will seek to appoint ministers, elders and deacons who are suitably experienced in the law and practice of the Church. Appointments shall be for three years with the option of serving further consecutive terms. The Legal Questions Committee shall, from time to time, determine how many ministers, elders and deacons are required to populate the Panel and will arrange for the provision of training and support for those selected to take part in this work.
   (f) A member of the Judicial Proceedings Panel who, at the expiry of his or her elected membership of the Panel is a member of a Special Committee of Presbytery whose work is not yet completed, shall be deemed to continue as a member of the Panel. His or her membership of the Special Committee shall continue uninterrupted until the Special Committee’s work is completed at which time his or her deemed membership of the Panel shall also end.
   (g) “Presbyterial Panel” shall mean a list of ministers, elders or deacons submitted by Presbyteries in accordance with the following procedure. Every Presbytery, with the exception of the Presbytery of Jerusalem, shall be entitled to appoint one person in respect of every one hundred members, or part thereof, of the Presbytery, to form the Presbyterial Panel. Such appointments shall be made annually with effect from 1st July, shall subsist for one year and shall be intimated in advance to the Principal Clerk.
Persons may be re-appointed up to a maximum of three times. Elders so appointed need not be members of the Presbytery, but shall be members of Kirk Sessions within the bounds of the Presbytery. Ministers or deacons so appointed shall be in full membership of the Presbytery. Where it is reasonable so to do, Presbyteries shall appoint equal numbers of men and women to the Presbyterial Panel.

(h) “Presbyterial Commission” shall mean a body of five persons, three of whom shall be selected from the Presbyterial Panel randomly as provided for in terms of section 10(2), but so as to ensure that at least one of the three shall be a Minister, together with a Convener and Vice-Convener appointed by the General Assembly on the Report of the Nomination Committee, both of whom shall be qualified to practise as a lawyer. An alternate Convener and Vice-Convener, qualified as aforesaid, shall be appointed at the same time, but if for any case a further alternate shall be required, the Secretary to the Commission shall consult with the Convener of the Nomination Committee for a further appointment. The Solicitor of the Church shall normally serve as Secretary to Presbyterial Commissions, but may appoint a Depute to act in his or her place in any particular case. The Secretary shall not be a member of the Commission.

(i) “Respondent” shall for the purposes of this Act only mean the Minister, Licentiate, Graduate Candidate or Deacon (i.e. member of the Diaconate), as described in paragraphs (b) and (c).

(j) “censure” shall mean one or more of:

(i) reprimand, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct;

(ii) suspension from the status and functions of ministry for a fixed period. Suspension may only be lifted in accordance with section 28 of the Registration of Ministries Act (Act II 2017) upon application by the Respondent.

(iii) suspension from the status and functions of ministry without limit of time but subject to a minimum period of suspension to be determined by the Presbyterial Commission when passing censure upon the Respondent in terms of section 18(2) hereof. Suspension may only be lifted in accordance with section 28 of the Registration of Ministries Act (Act II 2017) upon application by the Respondent.

(iv) removal of status, subject to restoration only by application in terms of Act IX, 2002.

(k) “administrative suspension” shall mean an instruction by a Presbytery to an individual under its jurisdiction to abstain from the exercise of all the functions of his or her office as minister or deacon until proceedings under this Act are finally disposed of; it shall not constitute a form of censure.

(2) Throughout this Act the singular shall include the plural where applicable.

(3) For the avoidance of doubt it is declared that any proceedings under this Act are part of the exclusive jurisdiction of the Church and in accordance with the Articles Declaratory of the Constitution of the Church of Scotland in matters spiritual, as hereby interpreted by the Church.
(4) For the avoidance of doubt it is declared that nothing in this Act shall reduce the
general power of the Presbytery to impose an administrative suspension on any
individual subject to its jurisdiction in terms of this Act at any time.

2. (1) All investigatory proceedings shall be initiated by the Presbytery having jurisdiction
in terms of this section.

(2) Ministers and Deacons shall be subject to the jurisdiction of the Presbytery of
which they are members and that notwithstanding that they may reside beyond
the bounds.

(3) Ministers and Deacons who are not members of any Presbytery shall be subject
to the jurisdiction of the Presbytery within whose bounds they normally reside.

(4) Licentiates shall be subject to the jurisdiction of the Presbytery which licensed
them or to which they have been regularly transferred.

(5) A Graduate Candidate shall be subject to the jurisdiction of the Presbytery in
whose bounds is situated the congregation of which he or she is a communicant
member in terms of section 22 of Act X 2004.

3. (1) A Presbytery may initiate investigatory proceedings whenever there come to the
notice of the Presbytery circumstances indicating that a disciplinary offence may
have been committed. The Presbytery, or any Committee or individuals holding
delegated powers from Presbytery so to do, shall be entitled at its or their
discretion to suspend the Respondent immediately from carrying out the functions
of his or her office and/or from undertaking ministerial functions generally, which
suspension shall be administrative only, and the Presbytery shall be entitled,
where appropriate, to appoint an Interim Moderator to the Respondent’s charge.
This entitlement shall be without prejudice to the general power of Presbytery
described in section 1(4) above.

(2) Should circumstances indicating a possible disciplinary offence come to the notice
of a Presbytery other than that having jurisdiction in terms of section 2, it shall
communicate the same to the Presbytery having jurisdiction together with all
information pertaining thereto in its possession.

(3) It shall be a disciplinary offence for any member of Presbytery to issue press
statements or otherwise talk to the media about an alleged disciplinary offence
after the Presbytery receives notice of an alleged offence until the conclusion of
any disciplinary proceedings and any appeals relating thereto.

(4) A Presbytery shall initiate investigatory proceedings as soon as it comes to the
notice of the Presbytery that (a) the name of a person over whom it has jurisdiction
has been placed on the Sex Offenders’ Register or included in the Children’s List
and/or the Adults’ List kept under section 1(1) of the Protection of Vulnerable
Groups (Scotland) Act 2007 (or any subsequent modification, replacement or re-
enactment thereof), and/or (b) a person over whom it has jurisdiction has failed to
advise the Church’s Safeguarding Service of (i) any act, default or omission, or (ii)
any circumstances arising, bearing upon that person’s suitability to undertake
Regulated Work as defined in the Protection of Vulnerable Groups (Scotland) Act
2007 (or any subsequent modification, replacement or re-enactment thereof).

Part 2 Initial Consideration

4. (1) On receiving notice of circumstances indicating that a disciplinary offence may
have been committed, a Presbytery shall appoint from the JudicialProceedings
Panel a Special Committee to consider the circumstances, and, if appropriate, to investigate and prosecute the case. For the avoidance of doubt, a Presbytery shall not select anyone to serve on a Special Committee who is a member of their own Presbytery. In the exercise of any of its functions in terms of this Act, the Special Committee shall have all the powers of Presbytery. Except insofar as provided herein, the Presbytery shall have no further part in the proceedings.

(2) In considering whether to carry out an investigation the Special Committee of Presbytery shall consider whether all or any of the allegations made are frivolous, vexatious and/or without merit.

(3) (a) Where the Special Committee of Presbytery decides that all or any of the allegations are frivolous, vexatious and/or without merit and that it is accordingly not appropriate to carry out an investigation in respect of all or any of the allegations made, the Special Committee of Presbytery shall report its decision to reject the complaint or parts thereof (as appropriate) to the Presbytery and at the same time shall advise the person or persons (if any) who made the allegation or allegations of its decision and the reasons for it.

(b) For the avoidance of doubt a decision that it is not appropriate to carry out an investigation into all or any of the allegations made shall not be subject to appeal or dissent and complaint or any other form of review other than a procedural review carried out by three members of the Judicial Proceedings Panel appointed by the Legal Questions Committee.

(c) Said review must be requested by the person or persons who made the allegation or allegations within fourteen days of the date upon which the Special Committee of Presbytery reported its decision to such persons.

(d) Such request shall be made by sending or delivering a written request to the Presbytery Clerk, and such request shall also intimate, in brief specific numbered propositions, the grounds (as specified at sub-paragraph (f) below) which the person or persons making the allegation or allegations consider justify such a review taking place.

(e) In intimating its decision to the person or person who made the allegation or allegations, the Special Committee of Presbytery shall advise of the right to a procedural review.

(f) A procedural review can be sought only on one or both of the following grounds: (a) that there was an irregularity or breach of the principles of natural justice in the process followed by the Special Committee which materially influenced its decision; and, (b) that its decision was materially influenced by some incorrect fact.

(g) In the event that the persons so appointed to carry out such a procedural review determine that one or both of the foregoing grounds have been established, they shall order a new investigation to be carried out by a
different Special Committee of Presbytery selected from the Judicial Proceedings Panel.

(h) The decision of the procedural review shall be final and not subject to appeal, dissent and complaint or any other form of review.

**Part 3 Investigatory Proceedings**

5. (1) If the Special Committee of Presbytery decides to initiate investigatory proceedings it shall:
   (a) intimate in writing to the person who is the subject of the allegation ("the Respondent") the nature of the offence alleged and the nature of the evidence purported to exist in support of the allegation and shall offer him or her the opportunity to make any answer thereto, provided that he or she shall not be obliged to answer;
   (b) give notice to the Presbytery of that decision and of the allegation or allegations which are to be investigated; and
   (c) give notice to the Legal Questions Committee, which shall appoint a legally qualified assessor to advise the Special Committee of Presbytery on matters of law and procedure.

   (2) On receipt of the notice referred to in section 5(1)(b), the Presbytery shall make such arrangements as appear to it appropriate for the provision of pastoral support for the Respondent and his or her family, for the person or persons who made the allegation and for any witnesses within the bounds of the Presbytery.

6. (1) The Special Committee of Presbytery shall carry out such investigations as it deems necessary to determine whether a disciplinary offence may have been committed. Such investigations shall normally be concluded within 56 days of the date on which notice is given to the Presbytery in terms of section 5(1)(b) hereof but the Presbytery or any Committee or individuals holding delegated powers from the Presbytery so to do shall have power on cause shown by the Special Committee or the Respondent to grant a further period or periods for completion of the investigation.

   (2) In all cases under this Act the Presbytery shall keep a Record Apart of the investigatory proceedings. The Record Apart shall comprise all evidence obtained by the Special Committee of Presbytery including witness statements, and a transcript or recording of the evidence given at any hearing.

7. **Before reaching any conclusion on whether a disciplinary offence may have been committed, the Special Committee of Presbytery shall make known to the person against whom the allegation has been made the substance of the complaint being considered by the Special Committee and the nature of the evidence existing in support of the allegation and shall offer him or her the opportunity to make any answer thereto; provided that he or she shall not be obliged to answer.**

8. (a) Upon consideration of the allegations and evidence submitted and of any answers given, the Special Committee shall be entitled to resolve that no further investigation shall be carried out if there is no *prima facie* case to answer. In that
event it shall report to the Presbytery which shall recall any administrative suspension imposed in terms of section 3(1). At the same time the Special Committee shall also advise the person or persons (if any) who made the allegation or allegations of its decision and the reasons for it.

(b) At such time, the Special Committee may also issue guidance to the Respondent regarding his or her conduct. Such guidance will be kept in the Record Apart referred to in section 6(2) of this Act.

(c) For the avoidance of doubt a decision that it is not appropriate to carry out an investigation into all or any of the allegations made shall not be subject to appeal or dissent and complaint or any other form of review other than a procedural review carried out by three members of the Judicial Proceedings Panel appointed by the Legal Questions Committee.

(d) Said review must be requested by the person or persons who made the allegation or allegations within fourteen days of the date upon which the Special Committee of Presbytery reported its decision to such persons.

(e) Such request shall be made by sending or delivering a written request to the Presbytery Clerk, and such request shall also intimate, in brief specific numbered propositions, the grounds (as specified at sub-paragraph (g) below) which the person or persons making the allegation or allegations consider justify such a review taking place.

(f) In intimating its decision to the person or person who made the allegation or allegations, the Special Committee of Presbytery shall advise of the right to a procedural review.

(g) A procedural review can be sought only on one or both of the following grounds: (a) that there was an irregularity or breach of the principles of natural justice in the process followed by the Special Committee which materially influenced its decision; and, (b) that its decision was materially influenced by some incorrect fact.

(h) In the event that the persons so appointed to carry out such a procedural review determine that one or both of the foregoing grounds have been established, they shall order a new investigation to be carried out by a different Special Committee of Presbytery selected from the Judicial Proceedings Panel.

(i) The decision of the procedural review shall be final and not subject to appeal, dissent and complaint or any other form of review.

9. (1) In the event that the Special Committee of Presbytery decides to initiate disciplinary proceedings it shall prepare (a) a Notice of Complaint setting forth the alleged disciplinary offence or offences (hereinafter referred to as “charge” or “charges”) in respect of which it is proposed that disciplinary proceedings should be commenced, and (b) a summary of the evidence, whether from witnesses, documents or otherwise, that is considered to support the charge or charges made.
The Notice of Complaint will run in the name of the Special Committee of Presbytery and will be in such form that, in respect of each offence, there is set out the time and place of the disciplinary offence and the facts necessary to constitute the disciplinary offence.

Part 4 Disciplinary Proceedings

10. (1) The Special Committee of Presbytery shall initiate disciplinary proceedings by lodging with the Solicitor of the Church:
   (a) a Notice of Complaint setting forth one or more charges;
   (b) a list of the names and addresses of the witnesses to be adduced by the Special Committee of Presbytery;
   (c) a list of the productions to be put in evidence by the Special Committee of Presbytery; and
   (d) a request to appoint a first diet and to grant a warrant to the Special Committee of Presbytery for service of the Notice of Complaint and to cite the Respondent to attend the first diet.

   (2) The Solicitor of the Church shall notify the Convener and Vice-Convener of the Legal Questions Committee and arrange for the selection of a Presbyterial Commission in terms of section 1(1)(h) and shall, thereafter, in the name of the Commission, pronounce an Order –
   (a) fixing a date for the first diet, being a date not earlier than fourteen days after the expiry of the period specified for intimation and service; and
   (b) granting warrant for service of the Notice of Complaint on, and intimation of the first diet and a list of the names of those selected to serve on the Presbyterial Commission to, the Respondent within such period as he or she shall appoint.

   (3) The Special Committee of Presbytery shall, within the period fixed for intimation and service, intimate to the Respondent the date fixed for the first diet and shall serve upon him or her by recorded delivery post or personally by means of a Sheriff Officer –
   (a) the Notice of Complaint and lists of witnesses and productions; and
   (b) a summary of the evidence specified in section 9(1)(b).

   (4) In the event that service of the Notice of Complaint has not been timeously or regularly effected the Solicitor shall as aforesaid
   (a) grant warrant for the re-service of the Notice of Complaint as above; and
   (b) fix a fresh date for the first diet, being a date not earlier than fourteen days after the expiry of the period specified for the fresh intimation and service.

11. (1) The first diet will be held before the Presbyterial Commission.

   (2) At the first diet the Respondent may challenge –
   (a) the competency or relevancy of the Notice of Complaint; or
   (b) the constitution of the Presbyterial Commission:
   provided that in respect of any challenge to the competency or relevancy of the Notice of Complaint intimation of the ground of such challenge must be given to the Special Committee of Presbytery and the Presbyterial Commission not later than 24 hours before the diet is due to be held and any challenge made in terms of this sub-section shall ordinarily be disposed of immediately unless the
Presbyterial Commission considers that the matter cannot be decided without proof.

(3) The Presbyterial Commission may –
(a) adjourn the first diet for whatever reason;
(b) allow the Notice of Complaint to be amended by deletion, alteration or addition so as to cure any error or defect in it or meet any objection to it, on such conditions as it thinks fit;
(c) sustain or repel any challenge to the competency or relevancy of the Notice of Complaint in whole or in part;
(d) defer consideration of such challenge until after proof.

(4) After disposal or deferment of any challenge referred to in subsection (2) above, the Respondent shall be required to state whether he or she admits or denies each of such individual charges, if any, which remain on the Notice of Complaint.

(5) Where the Respondent admits all the individual charges brought the Presbyterial Commission shall, after hearing and considering any statement by the Special Committee, and any statement by or on behalf of the Respondent in mitigation, pass such censure upon the Respondent as appears to it appropriate or discharge the Respondent and shall record their decision in a document signed by the Convener.

(6) Where the Respondent denies some or all of the charges brought, the Presbyterial Commission will appoint a date for the proof of those charges which are denied and defer consideration of the question of censure in respect of any charges which are admitted until close of the proof; provided that the Special Committee of Presbytery may –
(a) accept any denial of any individual charge; or
(b) accept an admission of an individual charge in part;
in which case the proof will be confined to those charges which are denied and which denial is not accepted by the Special Committee of Presbytery.

(7) The date appointed for proof shall be not less than 28 days nor more than 56 days after the first diet or any adjournment thereof, but the Presbyterial Commission shall have power, upon cause shown by either party to fix a date outwith that period, or to adjourn the proof diet.

(8) Where the Presbyterial Commission has appointed a date for proof, it may make an Order requiring the Respondent to intimate to the Presbyterial Commission and to the Special Committee of Presbytery within such period as it shall specify a list of the names and addresses of the witnesses to be adduced and a list with copies of the productions to be put in evidence by him or her.

(9) Where (a) the Respondent has intimated in writing to the Special Committee of Presbytery and to the Presbyterial Commission (i) that there is no challenge in terms of subsection (2) hereof and (ii) that the charge or charges on the Notice of Complaint are all denied, and (b) both the Special Committee of Presbytery and the Respondent intimate in writing to the Commission that there are no other matters which they wish to raise at the First Diet, it shall not be necessary to hold a First Diet and instead the Convener, Vice-Convener and Secretary of the Commission shall appoint a date for the proof of the charge or charges and make any order in terms of subsection (8) hereof.
12. The first diet and proof shall take place in public except (a) where either the Special Committee of Presbytery or the Respondent request that, and show cause why, the hearing, or part thereof, be held in private, or (b) where the hearing of evidence from any person, or narration of facts thereof, in the opinion of the Presbyterial Commission is likely to prejudice morals or public order, to affect adversely the interests of justice or the private life of the parties or in any other special circumstances where publicity would prejudice the interests of justice, provided that in any event the Presbyterial Commission shall restrict publicity only to the extent strictly necessary.

13. If a party fails to attend or be represented at the time and place fixed for the proof, the Presbyterial Commission may (a) adjourn the proof to a later date; (b) if that party is the Special Committee of Presbytery, dismiss the Notice of Complaint; or (c) if that party is the Respondent, proceed to hear the proof in his or her absence, to reach a decision thereon and if appropriate to pass censure.

14. (1) The rules of civil evidence in Scots law shall apply and the standard of proof shall be the balance of probabilities. Witnesses shall be required by the Convener to take the oath or to affirm prior to giving evidence.

(2) The proceedings at the proof shall be recorded. The shorthand writer or technician shall be sworn by the Convener prior to the commencement of the hearing.

(3) If produced by either party, the notices issued by the Special Committee of Presbytery in terms of section 5(1)(a) and/or section 7 hereof and any answers thereto by the Respondent shall be admissible in evidence.

(4) In subsection (2) “The proceedings at the proof” shall, unless the Presbyterial Commission shall direct otherwise, mean the whole proceedings to the close of the proof, including, without prejudice to that generality (a) discussions on all matters arising in the course of the proof and the decision of the Presbyterial Commission on any such matter, (b) the evidence led at the proof and (c) the speeches of the parties or their counsel or solicitors on their behalf.

15. Each party shall be entitled to give evidence, to call witnesses, to question any witness and to address the Presbyterial Commission, provided that the Respondent shall have the right to speak last.

16. Subject to sections 14 and 15, the conduct of the proof shall be in such manner as the Presbyterial Commission considers most appropriate for the determination of the issues before it and to the just handling of the proceedings.

17. (1) No proof shall fail or the ends of justice be allowed to be defeated by reason only of any discrepancy between the Notice of Complaint and the evidence.

(2) It shall be competent at any time prior to the decision of the Presbyterial Commission, unless the Presbyterial Commission see just cause to the contrary, to amend the Notice of Complaint by deletion, alteration or addition, so as to –

(a) cure any error or defect in it;

(b) meet any objection to it; or

(c) cure any discrepancy or variance between the Notice of Complaint and the evidence.

(3) Nothing in this section shall authorise an amendment which changes the character of the charge or charges, and, if it appears to the Presbyterial Commission that the Respondent may in any way be prejudiced in his or her defence on the merits of the charges by any amendment made under this section, the Presbyterial
Commission shall grant such remedy to the Respondent by adjournment or otherwise as appears to the Presbyterial Commission to be just.

18. (1) At the close of the proof the Presbyterial Commission shall give its decision on whether and if so to what extent each charge on the Notice of Complaint has been established and the decision shall be recorded in a document signed by the Convener, provided that the Presbyterial Commission may take time to consider its decision and adjourn the diet of proof to a later date for that purpose.

(2) Upon giving its decision and, in the event of any charge being found to be established or admitted (including, without prejudice to that generality, those charges admitted and deferred in terms of section 11(6)), after hearing and considering any statement by the Special Committee and the Respondent in mitigation, the Presbyterial Commission shall pass such censure if any upon the Respondent as appears to it appropriate according to the circumstances of each charge.

(3) After giving its decision in terms of subsection (1), the Presbyterial Commission shall set forth in a document (a) those findings in fact which it has made, and (b) the censure if any which it has imposed, giving reasons for both elements of its decision. The Presbyterial Commission shall also record the majority by which its decision in respect of (i) each charge, and (ii) censure or absolute discharge was reached.

(4) The Secretary of the Presbyterial Commission shall send the documents referred to in subsections (1) and (3) to each of the parties, the Presbytery Clerk and the Principal Clerk of the General Assembly and shall make them available for public inspection.

Part 4A Accelerated Procedure where the Respondent desires to admit allegation(s)

18A (1) If at any stage of proceedings prior to the service of a Notice of Complaint, the Respondent indicates that he or she wishes to admit all or any of the allegation or allegations made against him or her, he or she shall be entitled so to intimate to the Special Committee of Presbytery. Said admission must be in writing and signed by the Respondent. It should include a statement by the Respondent that he or she has received legal advice on the matter. The admission shall not be accepted by the Special Committee in the absence of a statement that legal advice has been received. In the event that the Special Committee is willing to accept the said admission, either immediately or after making such other enquiries or investigations it considers appropriate, it shall as soon as practicable proceed to adjust and agree a Joint Minute with the Respondent or his or her Counsel or Solicitor. Said Joint Minute which shall be signed by or on behalf of both parties shall set out:

(a) the disciplinary offence or offences which are admitted;
(b) an agreed summary of the material facts; and
(c) such other information as it is agreed should be before the Presbyterial Commission to assist it in reaching an appropriate disposal of the case.

In the event that the Special Committee is either unwilling to accept the said admission or, following upon discussions with the Respondent or his or her
Counsel or Solicitor, it concludes that it will not be possible to agree the terms of the Joint Minute, it shall be entitled to resume its investigations, and if appropriate proceed to prosecute the case in accordance with the other provisions of this Act.

(2) The Special Committee shall after signature thereof transmit the Joint Minute to the Solicitor of the Church who shall proceed to notify the Convener and Vice-Convener of the Legal Questions Committee and arrange for the selection of a Presbyterial Commission in terms of section 1(1)(h). The Solicitor shall thereafter in name of the Commission pronounce an Order fixing a date for a diet before the Commission, being a date not earlier than fourteen days after the date of intimation thereof. The Solicitor shall intimate the said Order to the Special Committee and the Respondent and his or her Counsel or Solicitor.

(3) At the said diet, the Presbyterial Commission shall, after hearing and considering any statement by the Special Committee and any statement by the Respondent in mitigation, pass such censure upon the Respondent as appears to it appropriate or discharge the Respondent and shall record its decision with brief reasons therefor in a document signed by the Convener. The Commission shall be entitled \textit{inter alia} to take into account the fact that an early plea was made and mitigate any censure as it sees fit.

(4) In the event that the Respondent at the diet withdraws or modifies to any extent the admission previously made to all or any of the disciplinary offences, unless this is accepted by both the Special Committee and the Commission, the diet shall be adjourned and thereafter the case shall proceed as directed by the Commission in accordance with the other provisions of this Act.

Part 5 Appeals

19. (1) If either the Special Committee of Presbytery or the Respondent is dissatisfied with any decision of the Presbyterial Commission, they may appeal to the Judicial Commission in terms of the Appeals Act (Act I 2014). No right of appeal or dissent-and-complaint shall be allowed in respect of any act or decision done or taken in terms of this Act, otherwise than in accordance with the provisions of this Act or the Appeals Act (Act I 2014).

(2) In the case of any appeal against the severity of censure, taken by any party, it shall be open to the Judicial Commission to vary the censure in the direction of greater severity or greater leniency.

(3) In relation to an appeal, the Clerk of the Judicial Commission may invite the Presbyterial Commission to furnish a report in writing on the case generally and in particular on the Grounds of Appeal, for the assistance of the parties and of members of the Judicial Commission.

Part 6 Subsequent Process

20. The Presbytery shall meet within not less than twenty-one and not more than thirty-five days after receiving intimation of the written decision of the Presbyterial Commission or, in the event of an appeal being taken, after receiving intimation of the judgement of the Judicial Commission or the General Assembly and –

(1) In the event that the decision has not involved suspension or removal from office, it shall
(a) lift the administrative suspension upon the person;
(b) relieve the Interim Moderator of duty;
(c) undertake such steps of discipline against other individuals and superintendence of its members and congregations as it finds necessary.

(2) In the event that the decision involved (i) a suspension of such length that, in the judgement of the Presbytery, the pastoral tie requires to be terminated, or (ii) the removal of the status of the Respondent.
   (a) any parish of which the person was minister shall be deemed to have become vacant on the date of the meeting of Presbytery and any other ordained appointment which he or she occupied shall terminate on that date;
   (b) the appointment of an interim Moderator shall be confirmed or a new appointment made;
   (c) the Presbytery shall undertake such steps of discipline against other individuals and superintendence of its members and congregations as it finds necessary.

(3) In the event that the decision involved a suspension which is not of such a length that the pastoral tie is to be terminated
   (a) the appointment of an interim Moderator shall be confirmed or a new appointment made;
   (b) the Presbytery shall undertake such steps of discipline against other individuals and superintendence of its members and congregations as it finds necessary.

(4) This section shall apply mutatis mutandis to Deacons.

Part 7 Miscellaneous

21. The Special Committee of Presbytery and the Respondent may be represented by counsel and/or solicitor at any stage of the investigatory proceedings, disciplinary proceedings or appeal.

22. Subject always to section 22A, which shall apply where a Respondent appoints a solicitor to represent him or her in proceedings under this Act, following receipt of intimation in terms of section 5(1), on or after 31 May 2018, the expenses of the Special Committee of Presbytery and the Respondent in the conduct of proceedings under this Act and any appeal following thereon, and the necessary expenses of witnesses, as the same may be taxed by the Auditor of the Court of Session, after hearing parties, shall be met from the central funds of the Church, but only as follows:
   (1) Expenses shall be paid on the basis of the current Tables of Fees of Solicitors and witnesses in the Sheriff Court in civil causes on a party and party basis only. Any provision in such Table of Fees for a percentage or other increase in fees shall not apply.
   (2) The costs of legal advice or representation by a solicitor shall be payable in terms of sub-section (1). Counsel’s fees shall be paid from the funds of the Church only if, and to the extent to which, the employment of counsel has been sanctioned in terms of sub-section (3) or sub-section (4).
   (3) (a) When a Notice of Complaint has been lodged with the Solicitor of the Church in terms of section 10, and as soon as he or she has identified the Convener and Vice-Convener of the Presbyterial Panel to hear the case, the Special Committee of Presbytery or the Respondent may apply to the Solicitor for permission to employ counsel to advise or represent them.
(b) On receipt of any such application, the Solicitor shall arrange for a hearing before one Convener and Vice-Convener of the Presbyterial Commission, not being the Convener and Vice-Convener who will serve on the Commission chosen to hear the case; and at the hearing all parties shall be entitled to be present and make representations. The Convener and Vice-Convener shall, after hearing parties, decide whether to sanction the payment of counsel and, if they do so, they shall specify whether it be for junior counsel only, senior counsel only, or both senior and junior counsel, and whether for the whole case up to the final judgement of the Presbyterial Commission, or only for part thereof.

(c) Authorisation in terms of paragraph (b) above may be made retrospective, in respect of legal advice.

(4) (a) When Grounds of Appeal have been lodged with the Principal Clerk in terms of section 19 of this Act, the Appellant or Special Committee of Presbytery may apply to the Principal Clerk for permission to employ counsel to advise or represent them.

(b) On receipt of any such application, the Principal Clerk shall arrange for a hearing before one Convener and Vice-Convener of the Presbyterial Commission, who may not be the Convener and Vice-Convener who served on the Commission which heard the case, but who may be the same Convener and Vice-Convener who heard an application in terms of sub-section (3)(b) above; and at this hearing all parties shall be entitled to be present and make representations. The Convener and Vice-Convener shall, after hearing parties, decide whether to sanction the payment of counsel and, if they do so, they shall specify whether it be for junior counsel only, senior counsel only, or both senior and junior counsel, and whether for the whole appeal or only for part thereof.

(c) For the avoidance of doubt, the Convener and Vice-Convener acting in terms of subsection (4)(b) shall not have power to authorise any expenditure prior to the lodging of the Grounds of Appeal.

(5) For the purposes of this section all references to 'junior counsel' shall be deemed to refer also to solicitor advocates.

(6) There shall be no right of appeal against any decision made in terms of this section.

22A. Where a Respondent appoints a solicitor to represent him or her in proceedings under this Act, following receipt of intimation in terms of section 5(1), on or after 31 May 2018, (i) the expenses of the Respondent in the conduct of proceedings under this Act and any appeal following thereon, may be met from central funds of the Church only in accordance with the terms of the Legal Aid in Disciplinary Proceedings Regulations (Regs I 2018), and (ii) the expenses of the Special Committee of Presbytery in the conduct of proceedings under this Act may be met from central funds of the Church only on a basis equivalent to that which the Respondent could obtain in terms of Regulation 5(c) of the Legal Aid in Disciplinary Proceedings Regulations (Regs I 2018).

23. Where in the view of the Commission it is necessary so to do to ensure the interests of justice, on the motion of either party or ex proprio motu, the Presbyterial Commission shall have power to order either party to produce within such period as the Commission shall consider reasonable, any document or other article in that party’s possession and any such document or other article shall be a Production in the proceedings and may be
founded upon. Such a power shall be exercisable at any time up to the conclusion of the Proof.

24. The Presbyterial Commission may relieve a party from the consequences of a failure to comply with a provision of this Act shown to be due to mistake, oversight or such other excusable cause on such conditions as the Commission thinks fit.

25. The Legal Questions Committee shall have power to make regulations to regulate and prescribe the practice and procedure to be followed in any proceedings brought before the Presbyterial Commission in terms of this Act, provided that such regulations shall be laid before and be subject to alteration, revocation, amendment or modification by the General Assembly.

26. No member of the Presbyterial Commission shall participate in any proceedings brought by a Presbytery of which he or she is a member or within the bounds of which there is a congregation of which he or she is a communicant member. This section shall not apply to the Solicitor of the Church.

27. Act II 1988 anent the Judicial Commission is amended as follows:-

   Amend section 3 to read as follows:-

   In terms of section 1 above, the Judicial Commission shall hear Appeals against the decisions of Presbyterial Commissions in cases relating to discipline of Ministers, Licentiates, Graduate Candidates and Deacons except in matters of doctrine. The findings and final judgement of the Judicial Commission in Appeals in terms of this section shall be incorporated in a written Report to the General Assembly, but shall not be subject to review by the General Assembly.

   Amend the Rules of Procedure rule 2 as follows:-

   After “Inferior Court” add “or Presbyterial Commission”.

   Amend Rules of Procedure rule 3 as follows:-

   Add at the end the words “, except as excluded by the Act Anent Discipline of Ministers, Licentiates, Graduate Candidates and Deacons [Act III 2001]”.

   Amend the first sentence of Rules of Procedure rule 4 to read:-

   “In Appeals arising under the Act Anent Discipline of Ministers, Licentiates, Graduate Candidates and Deacons [Act III 2001] the Secretary of the Presbyterial Commission shall within fourteen days of the receipt of the written statement of Appeal transmit to the Clerks of the Judicial Commission the written statement of Appeal, the Notice of Complaint, Notice of Special Defence, if any, productions, transcript of evidence, and the whole record of proceedings”.

   Amend Rules of Procedure rule 8 as follows:-

   In the second sentence delete the first occurrence of the word “The” and substitute “An”.

   Amend Rules of Procedure rule 10 as follows:-

   After “the Inferior Court” add “, the Presbyterial Commission”.

IV. MINISTERS AND DEACONS IN PUBLIC OFFICE ACT (ACT IV 2001) (AS AMENDED BY ACT VIII 2003 AND II 2017)

Edinburgh, 19 May 2001 Session 1

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

1. (1) A minister or deacon in a charge or appointment of the Church who wishes to stand for:
   (a) any elected public office where the performance of duties could involve more than an average of five hours per week or
   (b) any office specified in Section 50 (2) of the Employment Rights Act 1996 c.18 as originally enacted (see the Appendix)

   shall inform the Presbytery of which he or she is a member of his or her intention before so standing.

   (2) A minister or deacon in such charge or appointment who is offered appointment to any public office which may affect the ability to discharge his or her ecclesiastical responsibilities shall inform the Presbytery of the offer.

   (3) A Presbytery shall have the right to commence process in terms of this Act on its own initiative.

2. (1) A minister or deacon elected as a Member of Parliament, a Member of the Scottish Parliament or a Member of the European Parliament or elected or appointed to any other full-time public office will be held to have demitted his or her charge or resigned his or her appointment immediately upon election or upon the date such other appointment becomes effective.

   (2) It shall not be necessary for such a minister to make formal application to demit, but the Presbytery shall allow the demission unless there be special ground to refuse to do so, and shall appoint an Interim Moderator. If at the time of the demission the minister holds Category O registration, he or she may opt to retain that under section 19 of the Registration of Ministries Act (Act II 2017), failing which the Presbytery shall re-register the minister on the Register of Ministry in Category R or Category I, the minister in question being entitled to choose between Category R or Category I registration.

3. (1) When a minister or deacon in a charge or appointment of the Church stands for election as a local councillor or other part-time public office, or is offered, and does not decline to accept, any office referred to in section 1(1)(b) or section 1(2), the Presbytery shall judge whether it believes the bearing of such public office would be compatible with the exercise of the present ministry of the minister or deacon, and shall either
   (a) give permission for him or her to remain in post whilst bearing the said public office, or
   (b) in the event that the Presbytery judges that the public office sought or offered, if subsequently accepted, is not compatible with the proper fulfilment of the said ministry, it shall confer with the minister or deacon and with the office-bearers of the charge and determine either:
      (i) that, if the minister or deacon is elected or accepts the public office, a special and reviewable arrangement of ministerial staffing and financing, to allow the minister or deacon to remain in post, should be
created by the Presbytery subject to the approval of the Ministries Council’s Committee on Planning and Deployment, or

(ii) that the charge should be declared vacant, or other appointment terminated, in terms of section 2.

(2) Any decision made in terms of this section shall be subject to review by the Presbytery at any time during the duration of the period of the office held.

4. Before a call to any Member of Parliament, Member of the Scottish Parliament or Member of the European Parliament or holder of any other full-time public office to any charge is sustained, or before he or she enters as a minister or deacon upon any appointment in the Church, he or she must have demitted such public office. Such a person may, if otherwise qualified, be nominated and elected to a charge on undertaking so to demit.

5. If a local councillor or the holder of another part-time public office or any office referred to in section 1(1)(b) wishes to hold, along with that office, any charge or appointment as a minister or deacon in the Church, he or she must apply to the Presbytery, which shall deal with the matter in a similar way to that laid down by section 3, and shall make a determination in terms similar to those laid down by section 3(1)(a) or 3(1)(b)(i), or shall determine that the applicant may not hold the charge or church appointment while holding the public office.

6. For the avoidance of doubt:

(1) It shall not be necessary for a minister or deacon who demits office or appointment in terms of this Act to demit status.

(2) It shall not be competent for a Presbytery or employer to grant to a minister or deacon indefinite, fixed-term or sabbatical leave or any comparable arrangement in order to bear office as defined in this Act.

APPENDIX

Section 50(2)(a) to (g) of the Employment Rights Act 1996 c.18 as originally enacted

(a) A Local Authority
(b) A Statutory Tribunal
(c) A Police Authority
(d) A Board of Prison Visitors or a Prison Visiting Committee
(e) A relevant Health Body
(f) A relevant Education Body or
(g) The Environment Agency or the Scottish Environment Protection Agency.
V. PRESBYTERY ASSESSORS ACT (ACT V 2001)

Edinburgh, 21 May 2001, Sess.4

The General Assembly enact and ordain:

1. A Presbytery, finding that the number of its ministers who are available to fulfil the functions of the Presbytery is insufficient by reason of vacancies or illness or other like temporary cause, may apply to the Legal Questions Committee and request that it nominate one or more assessor ministers as provided for in Section 2.

2. The Legal Questions Committee is authorised, after consultation with the Ministries Council, to nominate assessor ministers to any Presbytery which makes application in terms of this Act and shows sufficient cause to the Committee for such nomination to be made.

3. A minister appointed as an assessor in terms of this Act shall be a member of another Presbytery, and shall retain such membership for the duration of his or her appointment.

4. The task and function of a minister appointed as assessor to another Presbytery, and his or her responsibilities and the privileges of membership of Presbytery shall normally extend only to those necessary to fulfil the allocated task.

Edinburgh, 25 May 2002  Session 1

The General Assembly declare and enact as follows:

1. Subject to the provisions of this Act, a Presbytery may appoint to a special committee or commission of the Presbytery a voting member of another Presbytery.


3. Such appointments shall not be made to any standing committee of the Presbytery, nor shall any appointee be granted a seat in the appointing Presbytery.

4. An individual appointed in terms of this Act shall retain membership of his or her own Presbytery for the duration of the appointment.

5. The task and function of an individual appointed in terms of this Act, and his or her responsibilities and the privileges of membership of a committee or commission, shall normally extend only to those necessary to fulfil the allocated task.

6. The reasonable expenses of an individual appointed in terms of this Act shall be met by the Presbytery making the appointment.

7. Nothing in this Act shall be taken to be an amendment or qualification of Act V 2001.

Edinburgh, 25 May 2002, Session 1

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

1. In this Act the following definitions apply:
   (a) “Applicants” are persons who have submitted an application in terms of this Act.
   (b) “Certificate of Eligibility” has the meaning given in section 6(b)(i).
   (c) “The Council” is the General Assembly’s Ministries Council.
   (d) “The Committee” is the Council’s Recruitment Task Group.
   (e) “OLM Certificate of Eligibility” has the meaning given in section 6(b)(iii).
   (f) The “Review Panel” is a body appointed by the Committee but does not contain any of the Committee’s voting membership. Its function is to assess the character and beliefs, education and experience, vocation, motivation and general suitability for ministry of those applicants referred to it by the Committee in terms of this Act, and to make recommendation to the Committee about each application.
   (g) “Temporary Certificate of Eligibility” has the meaning given in section 6(b)(ii).

2. Applications in terms of this Act shall be submitted in the first instance to the Committee which is empowered, subject to the provisions of this Act, to make such Regulations for its procedure and to require such fees from applicants as it sees fit. The Committee shall issue a statement of such Regulations and Fees, the dates of the meetings of the Committee and the latest submission date for applications to be considered within a particular cycle of the Committee’s meetings, for the guidance of applicants and for its own use.

3. Applications shall be presented in keeping with the style required by the Committee. They shall give full particulars as to the applicant’s age, present Church connection, educational curriculum, medical history, ministerial career and other employment, together with a statement indicating the reasons for the applicant’s wish to be admitted to the ministry of the Church of Scotland and the form of service which the applicant wishes to exercise. The application shall be accompanied by all the documents (originals, extracts or copies) necessary in the opinion of the Committee to substantiate the facts set forth, by the names of three referees, and by a statement indicating willingness to submit to a medical examination if this is considered necessary by the Committee.

Ministers and Deacons – Standard Procedure

4. (1) Ministers and deacons referred to in section 4(2) shall have their application considered in terms of sections 6 and 7 below. Such determinations shall be subject to the right of appeal set out in section 12 below.
   (2) This section shall apply to any applicant who has been a minister or deacon of the Church of Scotland but who has been judicially deprived of status in terms of Act VII 1935, Act III 2001 (as amended) or Act I 2019, notwithstanding that he or she may also belong to one of the categories specified in section 5; and subject to the right of any Presbytery to require that the decision of the Committee be confirmed by the Commission of the General Assembly, at which the said Presbytery shall be required to
appear and be heard.

Ministers and Deacons – Abbreviated Procedure

5. Applicants in the following categories shall have their applications considered in terms of section 6 below only:
   (a) All ministers and deacons of other churches, and former ministers and deacons of the Church of Scotland not referred to in sub-section 4(2) above.
   (b) All Graduate Candidates in respect of whom there is no current Graduate Candidate’s certificate, except those referred to in paragraph 9(1)(d) below.
   (c) Licentiates of the Church of Scotland who have held the status of Licentiate for more than five years.

   It shall be the responsibility of the Committee to determine whether the applicant’s ordination is recognised by the Church of Scotland before referring his or her application to the Review Panel. He or she may also belong to one of the categories specified in section 5(1) above.

Consideration by the Committee

6. (a) It shall be the duty of the Committee to examine each application and such other documentation as it may require, to determine (in the light of the applicant’s current ministerial status) whether admission should be to the full-time Ministry or the Ordained Local Ministry, to refer applications to the Review Panel as defined in section 1(d) above and receive its recommendation in respect of each applicant and to grant, with or without conditions, or refuse a Certificate of Eligibility or a Temporary Certificate of Eligibility. For the avoidance of doubt, the Committee shall have the right, always on its own initiative, to interview the Candidate after the recommendation of the Review Panel has been received. All decisions made by the Committee in fulfilment of this section shall be subject to the right of appeal set out in section 12 below.

   (b) Subject to the provisions of the Vacancy Procedure Act (Act VIII 2003) section 27, the various Certificates which may be granted by the Committee shall be as follows:
      (i) a “Certificate of Eligibility” entitles the holder to apply for charges and appointments open to ministers of the Church of Scotland, including team ministry posts as defined in section 16(2)(a) of Act VII 2003. Admission to the status of minister of the Church of Scotland shall take effect at the point of admission to membership of Presbytery, which, in the case of a Licentiate, shall involve ordination. Certificates of Eligibility shall be valid for three years from the date of issue.
      (ii) a “Temporary Certificate of Eligibility” entitles the holder to apply for charges and appointments open to ministers of the Church of Scotland, including team ministry posts as defined in section 16(2)(a) of Act VII 2003, but to hold any such post for an initial period of three years only. The following shall also apply to the holder:
         (A) The Certificate shall entitle the holder to hold a post for period of three years provided that post commences within thirty six months of the date on which the Temporary Certificate of Eligibility is granted.
         (B) At the request of the congregation where the holder is called or appointed and with the concurrence of the Presbytery and the Council, the initial period of three years may be extended for one further period of not more than three years.
(C) The holder, if inducted to a charge, shall be granted a seat in Presbytery.

(D) The holder shall retain status as a minister in their denomination of origin. Admission to the status of minister of the Church of Scotland shall only take effect if the holder makes application to the Council for such status. Such an application shall be considered at a one day Admissions Panel and the paperwork considered shall be as specified by the Council, to include an application form and references. At least one reference shall be provided from a person with knowledge of the holder’s current post.

(E) Any employment contract which the holder enters into shall have a condition that it is an essential requirement for the person to hold a Temporary Certificate of Eligibility.

(F) The holder of a Temporary Certificate of Eligibility whose Certificate expires without him or her having successfully applied to be admitted to the status of minister of the Church of Scotland shall have no further right to apply for or hold charges or appointments open to ministers of the Church of Scotland, including team ministry posts as defined in section 16(2)(a) of Act VII 2003.

(iii) An “OLM Certificate of Eligibility” entitles the holder to serve in the Church of Scotland in accordance with the provisions of the Ordained Local Ministry Act (Act IX 2011).

(c) Deleted by Act XIV 2018.

Consideration by Presbytery

7. (a) In respect of applications made in terms of section 4 above, the Secretary of the Committee shall forward to the Presbytery of residence, or, in the case of an applicant who has not resided in Scotland for three months prior to the date of the application, to the Presbytery of Edinburgh, and to any Presbytery within whose bounds the applicant may have been permitted to be appointed as a minister pending the outcome of the application (a) a copy of the application in full, (b) copies of any documents obtained by the Committee. The Presbytery shall, before the date of the meeting at which the application is to be first considered, provide the Committee with its opinion of the application.

(b) The Committee shall make an interim decision in respect of the application, and the Secretary of the Committee shall inform the applicant of that decision and invite the applicant to determine whether or not he or she wishes to continue the application or appeal the decision.

(c) When the Secretary of the Committee receives from the applicant an indication of his or her desire to proceed with the application, he or she shall intimate to all Presbyteries the applications that have been received, for their information and comment before the date of the meeting of the Committee at which the application is to be finally considered in terms of section 6(a) above.

(d) In the event that the interim decision of the Committee is not to allow the applicant to proceed, it shall be open to the applicant to appeal, as set out in section 12 below.

Ministers – Readmission Procedure

8 This section was repealed in 2009.

Licentiates and Graduate Candidates of the Church of Scotland
9. (1) This section shall apply to the following categories of person:
   (a) Holders of an expired Certificate of Entitlement granted in terms of Act X 2004,
   (b) This sub-section was repealed in 2009
   (c) Candidates in respect of whom more than three years have passed since any formal training was undertaken in terms of Act X 2004 (as amended), or
   (d) Graduate Candidates in respect of whom a Graduate Candidate's certificate has been withheld by the Presbytery in terms of section 22 of Act X 2004.

(2) Sections 3 to 11 of Act X 2004 shall apply to those referred to in Section 9(1), and upon acceptance and nomination they shall be obliged to fulfil any training or familiarisation process determined by the Committee.

(3) Upon completion of the requirements of section 9(2), those referred to in section 9(1) shall have the status, privileges and responsibilities of a Graduate Candidate as defined in section 22 of Act X 2004.

Licentiates, Ordinands etc of Other Churches

10. Licentiates, ordinands, graduate candidates and those of comparable status, from Churches whose ordination is recognised by the Committee, shall be subject to the provisions of sections 3 to 11 of Act X 2004. For the purposes of this Act the Committee shall determine how to apply those provisions to applications in terms of this section, subject to the right of appeal set out in section 12 below.

11. A successful applicant shall be admitted to the status of Graduate Candidate as defined in section 22 of Act X 2004, subject to the completion (at the applicant's own cost) of such academic requirements, placements or other practical training, course work or conference work determined by the Committee, subject to the right of appeal set out in section 12 below.

Appeals

12. For the purposes of appeals against decisions of the Committee in terms of this Act, the Ministries Appeal Panel Act (Act VI 2007) shall apply, and the procedure shall be the ordinary appeals procedure set out in the Standing Orders of the General Assembly and referred to in section 3 of the said Act VI 2007. An appeal can only be brought on one or more of the following grounds: (a) that in the course of the Admissions or Readmissions procedure there were irregularities in the process, (b) that the final decision was influenced by incorrect material fact, or (c) that the Committee acted contrary to the principles of natural justice.

Confidentiality

13. Each application and all procedure under this Act shall be taken in private by the Council and by Presbyteries.

The Diaconate

14. The provisions of this Act shall apply to members of the diaconal ministry of the Church of Scotland and other Churches. The Committee shall be responsible for determining the interpretation of this Act consistently with the provisions of Act VIII 2010; such determinations shall be subject to the right of appeal set out in section 12 above.

Repeals and Amendments

15. (1) Act III 1995 and the Regulations appended thereto, are hereby repealed.
   (2) Section 28 of Act V 1998 (as amended) is hereby repealed.
(3) The Discipline of Ministry Act (Act III 2001) shall be amended as follows: section 1(1)(h)(iii) shall be amended to read 'removal of status, subject to restoration only by application in terms of Act IX 2002.'

**Interpretation of Acts**

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

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.
(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).

(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**

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.

Edinburgh, May 17 2003, Session I

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. **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). 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 fails to begin to be implemented.

(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 I 2014). 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.
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 behalf 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) *This section was deleted by Act VII 2019.*

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 Amendments**

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

**SCHEDULE**

**THE PLANNING PRINCIPLES**

**Principles**

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2 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.
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 Commission 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**

   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

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

Edinburgh, 17 May 2003, Session I

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

1. Vacancy Procedure Committee

   (1) Each Presbytery shall appoint a number of its members to be available to serve on Vacancy Procedure Committees and shall provide information and training as required for those so appointed.

   (2) As soon as the Presbytery Clerk is aware that a vacancy has arisen or is anticipated, he or she shall consult the Moderator of the Presbytery and they shall appoint a Vacancy Procedure Committee of five persons from amongst those appointed in terms of subsection (1), which Committee shall (a) include at least one minister and at least one elder and (b) exclude any communicant member, the current or any former minister, or any person having, in the Presbytery’s opinion, a significant personal connection to the ministry or a former ministry of the vacant charge or of any constituent congregation thereof. The Vacancy Procedure Committee shall include a Convener and Clerk, the latter of whom need not be a member of the Committee but may be the Presbytery Clerk. The same Vacancy Procedure Committee may serve for more than one vacancy at a time.

   (3) The Vacancy Procedure Committee shall have a quorum of three for its meetings.

   (4) The Convener of the Vacancy Procedure Committee may, where he or she reasonably believes a matter to be non-contentious, consult members individually, and may do so by electronic means. A meeting shall be held at the request of any member of the Committee.

   (5) Every decision made by the Vacancy Procedure Committee shall be reported to the next meeting of Presbytery, but may not be recalled by Presbytery where the decision was subject to the provisions of section 2 below.

2. Request for Consideration by Presbytery

   Where in this Act any decision by the Vacancy Procedure Committee is subject to the provisions of this section, the following rules shall apply:—

   (1) The Presbytery Clerk shall intimate to all members of the Presbytery by mailing, by electronic means, or at a Presbytery meeting, the course of action or permission proposed, and shall arrange for one Sunday’s pulpit intimation of the same to be made to the congregation or congregations concerned, in terms of Schedule A. The intimation having been made, it shall be displayed as prominently as possible at the church building for seven days.

   (2) Any four individuals, being communicant members of the congregation or full members of the Presbytery, may give written notice requesting that action be taken in terms of subsection (3) below, giving reasons for the request, within seven days after the pulpit intimation.

   (3) Upon receiving notice in terms of subsection (2), the Presbytery Clerk shall sist the process or permission referred to in subsection (1), which shall then require the approval of the Presbytery.
The Moderator of the Presbytery shall in such circumstances consider whether a meeting pro re nata of the Presbytery should be called in order to avoid prejudicial delay in the vacancy process.

The Presbytery Clerk shall cause to have served upon the congregation or congregations an edict in terms of Schedule B citing them to attend the meeting of Presbytery for their interest.

The consideration by Presbytery of any matter under this section shall not constitute an appeal or a Petition, and the decision of Presbytery shall be deemed to be a decision at first instance subject to the normal rights of appeal or dissent-and-complaint.

3. Causes of Vacancy

The causes of vacancy shall normally include:

(a) the death of the minister of the charge;
(b) the removal of status of the minister of the charge or the suspension of the minister in terms of section 20(2) of Act III 2001 or section 40 of Act I 2019;
(c) the dissolution of the pastoral tie in terms of Act I 1988 or Act XV 2002;
(d) the demission of the charge and/or status of the minister of the charge;
(e) the translation of the minister of the charge to another charge;
(f) deleted by Act X 2016.

4. Release of Departing Minister

The Presbytery Clerk shall be informed as soon as circumstances have occurred that cause a vacancy to arise or make it likely that a vacancy shall arise. Where the circumstances pertain to section 3(d) or (e) above, the Vacancy Procedure Committee shall

(1) except in cases governed by subsection (2) below, decide whether to release the minister from his or her charge and, in any case involving translation to another charge or introduction to an appointment, instruct him or her to await the instructions of the Presbytery or another Presbytery;
(2) in the case of a minister in the first five years of his or her first charge, decide whether there are exceptional circumstances to justify releasing him or her from his or her charge and proceeding in terms of subsection (1) above;
(3) determine whether a vacancy has arisen or is anticipated and, as soon as possible, determine the date upon which the charge becomes actually vacant, and
(4) inform the congregation or congregations by one Sunday’s pulpit intimation as soon as convenient;
(5) The provisions of section 2 above shall apply to the decisions of the Vacancy Procedure Committee in terms of subsections (1) and (2) above.

5. Seat in Presbytery

(1) Subject to the provisions of subsection (2) below, when a vacancy has occurred in terms of section 3(c) or (d) above, the Presbytery shall determine whether the minister is, in the circumstances, entitled to a seat in the Presbytery in terms of section 16 of Act III 2000 (as amended).
(2) A minister who demits his or her charge without retaining a seat in the Presbytery shall, if he or she retains status as a minister, be subject to the provisions of sections 5 to 15 of Act II 2000 (as amended).

6. Appointment of Interim Moderator
(1) At the same time as the Vacancy Procedure Committee makes a decision in terms of section 4 above, or where circumstances pertain to section 3(a), (b) or (c) above, the Vacancy Procedure Committee shall appoint an Interim Moderator for the charge and make intimation thereof to the congregation subject to the provisions of section 2 above. 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, and he or she shall not be a member in the vacant charge nor a member of the Vacancy Procedure Committee. The name of the Interim Moderator shall be forwarded to the Ministries Council.

(2) Subject always to section 6(3), if the Interim Moderator appointed is a ministerial member of Presbytery it is understood that in accepting the appointment she/he is thereby disqualified from becoming an applicant or accepting an invitation to be considered in the current vacancy.

(3) A ministerial member of Presbytery who has in the past served as an Interim Moderator in the charge is not subject to the disqualification set out in section 6(2) if one of the following conditions applies:
   (i) The person was discharged as Interim Moderator at least two years prior to time of applying for the vacancy, or
   (ii) Intimation of the request to be discharged as Interim Moderator was given to the Presbytery Clerk prior to permission to call being given.

7. **Duties of Interim Moderator**

(1) It shall be the duty of the Interim Moderator to preside at all meetings of the Kirk Session (or of the Kirk Sessions in the case of a linked charge) and to preside at all congregational meetings in connection with the vacancy, or at which the minister would have presided had the charge been full. In the case of a congregational meeting called by the Presbytery in connection with adjustment the Interim Moderator, having constituted the meeting, shall relinquish the chair in favour of the representative of the Presbytery, but he or she shall be at liberty to speak at such a meeting. In consultation with the Kirk Session and the Financial Court he or she shall make arrangements for the supply of the vacant pulpit.

(2) The Interim Moderator appointed in a prospective vacancy may call and preside at meetings of the Kirk Session and of the congregation for the transaction of business relating to the said prospective vacancy. He or she shall be associated with the minister until the date of the actual vacancy; after that date he or she shall take full charge.

(3) Provided that permission to call has been given, it shall be the duty of the Interim Moderator to ascertain whether or not the Kirk Session (or Kirk Sessions in the case of a linking or deferred linking or deferred union) may wish to follow the procedures contained in the Ministers and Deacons in Civil Partnerships and Same Sex Marriages Act (Act I 2015), as regards making a decision on whether or not to depart (as “depart” is defined within that Act). Any such decision should be made after the Kirk Session(s) meets with the Advisory Committee in terms of section 13(2)(a) of this Act.

(4) The Interim Moderator shall act as an assessor to the Nominating Committee, being available to offer guidance and advice. If the Committee so desire he or she may act as their Convener, but in no case shall he or she have a vote.
(5) In the event of the absence of the Interim Moderator, the Vacancy Procedure Committee shall appoint a member of the Presbytery who is not a member of the vacant congregation to fulfil any of the rights and duties of the Interim Moderator.

(6) The Interim Moderator shall have the same duties and responsibilities towards all members of ministry teams referred to in section 16 of Act VII 2003 as if he or she were the parish minister, both in terms of this Act and in respect of the terms and conditions of such individuals.

8. **Permission to Call**

When the decision to release the minister from the charge has been made and the Interim Moderator appointed, the Vacancy Procedure Committee shall consider whether it may give permission to call a minister in terms of Act VII 2003, and may proceed subject to the provisions of section 2 above. The Vacancy Procedure Committee must refer the question of permission to call to the Presbytery if:

(a) shortfalls exist which in the opinion of the Committee require consideration in terms of section 9 hereunder;

(b) the Committee has reason to believe that the Vacancy Schedule referred to in section 10 below will not be approved;

(c) the Committee has reason to believe that the Presbytery will, in terms of section 11 below, instruct work to be carried out on the manse before a call can be sustained, and judges that the likely extent of such work warrants a delay in the granting of permission to call, or

(d) the Committee has reason to believe that the Presbytery may wish to delay or refuse the granting of permission for any reason.

Any decision by Presbytery to refuse permission to call shall be subject to appeal or dissent-and-complaint.

9. **Shortfalls**

(1) As soon as possible after intimation of a vacancy or anticipated vacancy reaches the Presbytery Clerk, the Presbytery shall ascertain whether the charge has current or accumulated shortfalls in contributions to central funds, and shall determine whether and to what extent any shortfalls that exist are justified.

(2) If the vacancy is in a charge in which the Presbytery has determined that shortfalls are to any extent unjustified, it shall not resolve to allow a call of any kind until:

(a) the shortfalls have been met to the extent to which the Presbytery determined that they were unjustified, or

(b) a scheme for the payment of the unjustified shortfall has been agreed between the congregation and the Presbytery and receives the concurrence of the Ministries Council and/or the Stewardship and Finance Committee for their respective interests, or

(c) a fresh appraisal of the charge in terms of Act VII 2003 has been carried out, regardless of the status of the charge in the current Presbytery plan:

   (i) During such appraisal no further steps may be taken in respect of filling the vacancy, and the Presbytery shall make final determination of what constitutes such steps.

   (ii) Following such appraisal and any consequent adjustment or deferred adjustment the shortfalls shall be met or declared justifiable or a scheme shall be agreed in terms of subsection (b) above; the Presbytery shall inform the Ministries Council and the Stewardship and
Finance Committee of its decisions in terms of this section; and the Presbytery shall remove the suspension of vacancy process referred to in sub-paragraph (i).

10. **Vacancy Schedule**
   
   (1) When in terms of sections 4 and 6 above the decision to release the minister from the charge has been made and the Interim Moderator appointed, there shall be issued, by the Ministries Council a Schedule or Schedules for completion by the responsible Financial Board(s) of the vacant congregation(s) in consultation with representatives of the Presbytery, setting forth the proposed arrangements for payment of ministerial expenses and for provision of a manse, showing the ministry requirements and details of any endowment income. The Schedule, along with an Extract Minute from each relevant Kirk Session containing a commitment fully and adequately to support the ministry, shall be forwarded to the Presbytery Clerk. For the avoidance of doubt, the Vacancy Schedule submitted to Presbytery shall include a recently completed Manse Condition Schedule following inspection of the manse of the charge.

   (2) The Schedule shall be considered by the Vacancy Procedure Committee and, if approved, transmitted to the Ministries Council by the Presbytery Clerk. The Vacancy Procedure Committee or Presbytery must not sustain an appointment and call until the Schedule has been approved by them and by the Ministries Council, which shall intimate its decision within six weeks of receiving the Schedule from the Presbytery.

   (3) The accuracy of the Vacancy Schedule shall be kept under review by the Vacancy Procedure Committee.

   (4) The provisions of section 2 above shall apply to the decisions of the Vacancy Procedure Committee.

11. **Manse**
   
   As soon as possible after the Manse becomes vacant, the Presbytery Property Committee shall inspect the Manse and come to a view on what work, if any, must be carried out to render it suitable for a new incumbent. The views of the Property Committee should then be communicated to the Presbytery which should, subject to any modifications which might be agreed by that Court, instruct the Financial Board of the congregation to have the work carried out. No induction date shall be fixed until the Presbytery Property Committee has again inspected the Manse and confirmed that the work has been undertaken satisfactorily.

12. **Profiling**
   
   Subject to the right to call having first been granted, the Kirk Session(s) shall prepare a profile of each congregation and parish within the charge, in accordance with the template published in the Guidelines for Kirk Sessions. In the case of a linked charge, this shall take the form of a single document, with separate sections for each constituent congregation. In all cases the profile shall contain, as an appendix, a copy of the most recent report on each constituent congregation produced in accordance with the Local Church Review Act (Act I 2011). The draft profile(s) shall then be submitted to the Advisory Committee, prior to its meeting with the Kirk Session(s) (section 13(2)(a)), for possible comment and revision.

13. **Advisory Committee**
(1) As soon as possible after intimation of a vacancy or anticipated vacancy reaches the Presbytery Clerk, the Vacancy Procedure Committee shall appoint an Advisory Committee of three subject to the following conditions:

(a) at least one member shall be an elder and at least one shall be a minister;
(b) the Advisory Committee may comprise members of the Vacancy Procedure Committee and act as a Support Committee to congregations in a vacancy;
(c) the Advisory Committee may contain individuals who are not members of the Presbytery;
(d) the appointment shall be subject to section 2 above.

(2) The Advisory Committee shall meet:

(a) before the election of the Nominating Committee, with the Kirk Session (or Kirk Sessions both separately and together) of the vacant charge, to consider together in the light of the whole circumstances of the parish or parishes (i) what kind of ministry would be best suited to their needs, (ii) the finalising of the profile which has been prepared in accordance with section 12, and (ii) which system of election of the Nominating Committee described in section 15(2)(e) hereunder shall be used;
(b) with the Nominating Committee before it has taken any steps to fill the vacancy, to consider how it should proceed;
(c) **deleted by Act III 2016**;
(d) with the Kirk Session(s) as soon as an application is made for permission to proceed in terms of section 27 of this Act, to ensure that the requirements of that section are fulfilled.
(e) with the Nominating Committee at any other time by request of either the Nominating Committee or the Advisory Committee.

In the case of charges which are in the opinion of the Presbytery remote, it will be adequate if the Interim Moderator (accompanied if possible by a member of the Nominating Committee) meets with the Advisory Committee for the purposes listed in paragraphs (a) and (b) above. The Advisory Committee may continue its work in the absence of one member, subject to the agreement of both of the remaining members.

(3) Before the Nominating Committee reports the identity of the nominee to the Kirk Session and Presbytery, it shall report the process followed to the Advisory Committee (by electronic means if desired) who shall give any further advice it deems necessary.

14. **Electoral Register**

(1) It shall be the duty of the Kirk Session of a vacant congregation to proceed to make up the Electoral Register of the congregation. This shall contain (1) as communicants the names of those persons (a) whose names are on the communion roll of the congregation as at the date on which it is made up, (b) whose names have been added or restored to the communion roll on revision by the Kirk Session subsequently to the occurrence of the vacancy, and (c) who have given in valid Certificates of Transference by the date specified in terms of Schedule C hereto; and (2) as adherents the names of those persons who, being regular worshippers in the congregation at the date when the vacancy occurred, and not being members of any other congregation, have claimed (in writing in the form prescribed in Schedule D and within the time specified in Schedule C) to be placed
on the Electoral Register, the Kirk Session being satisfied that they desire to be permanently connected with the congregation and knowing of no adequate reasons why they should not be admitted as communicants should they so apply.

(2) At a meeting to be held not later than fourteen days after intimation has been made in terms of Schedule C hereto, the Kirk Session shall decide on the claims of persons to be placed on the Electoral Register, such claims to be sent to the Session Clerk before the meeting. At this meeting the Kirk Session may hear parties claiming to have an interest. The Kirk Session shall thereupon prepare the lists of names and addresses of communicants and of adherents which it is proposed shall be the Electoral Register of the congregation, the names being arranged in alphabetical order and numbered consecutively throughout. For the avoidance of doubt, the names of individuals who are not contactable and whose address is unknown shall not be entered on the Electoral Register. The decision of the Kirk Session in respect of any matter affecting the preparation of the Electoral Register shall be final.

(3) The proposed Electoral Register having been prepared, the Interim Moderator shall cause intimation to be made on the first convenient Sunday in terms of Schedule E hereto that any person who believes they are eligible to be included in the Electoral Register may inquire as to whether their name has been included, and the provisions which the Kirk Session has made for such inquiry, and further shall specify a day when the Kirk Session will meet to hear further requests for inclusion in the Register and will finally revise and adjust the Register. At this meeting the list, having been revised, numbered and adjusted, shall on the authority of the court be attested by the Interim Moderator and the Clerk as the Electoral Register of the congregation.

(4) This Register, along with a duplicate copy, shall without delay be transmitted to the Presbytery Clerk who, in name of the Presbytery, shall attest and return the principal copy, retaining the duplicate copy in his or her own possession. For all purposes connected with this Act the congregation shall be deemed to be those persons whose names are on the Electoral Register, and no other.

(5) If after the attestation of the Register any communicant is given a Certificate of Transference, the Session Clerk shall delete that person’s name from the Register and initial the deletion. Such a Certificate shall be granted only when application for it has been made in writing, and the said written application shall be retained until the vacancy is ended.

(6) At any time after a period of six months has elapsed since the Electoral Register being attested, but before the name of a nominee is reported to the Kirk Session, the Kirk Session shall have power, if it so desires, to:

(a) revise and update the Electoral Register. Intimation of this intention shall be given in terms of Schedule F hereto. Additional names shall be added to the Register in the form of an Addendum which shall also contain authority for the deletions which have been made;

or

(b) add to the Electoral Register the name of any person who has been added to the Communion Roll of the congregation, in the form of an Addendum.

In the case of (a) or (b) above, two copies of this Addendum, duly attested, shall be lodged with the Presbytery Clerk who, in name of the Presbytery, shall attest
and return the principal copy, retaining the duplicate copy in his or her own possession.

15. **Appointment of Nominating Committee**

(1) When permission to call has been given and the Electoral Register has been attested, intimation in terms of Schedule G shall be made that a meeting of the congregation is to be held to appoint a Committee of its own number for the purpose of nominating one person to the congregation with a view to the appointment of a minister.

(2) (a) The Interim Moderator shall preside at this meeting, and the Session Clerk, or in his or her absence a person appointed by the meeting, shall act as Clerk.

(b) The Interim Moderator shall remind the congregation of the number of members it is required to appoint in terms of this section and shall call for Nominations. To constitute a valid Nomination the name of a person on the Electoral Register has to be proposed and seconded, and assurance given by the proposer that the person is prepared to act on the Committee. The Clerk shall take a note of all Nominations in the order in which they are made.

(c) For the avoidance of doubt, a member of a vacant charge shall not be eligible for nomination to serve on a Nominating Committee, if he or she is:

(i) a minister (including a retired minister) of the Church of Scotland,

(ii) a member of the diaconate of the Church of Scotland,

(iii) an employee of the vacant charge,

(iv) an employee of the Ministries Council who works in the vacant charge, or

(v) the spouse or civil partner, of the current minister, or of any former minister of the charge.

(d) When it appears to the Interim Moderator that the Nominations are complete, they shall be read to the congregation and an opportunity given for any withdrawals. If the number of persons nominated does not exceed the maximum fixed in terms of subsection (4) below there is no need for a vote, and the Interim Moderator shall declare that these persons constitute a Nominating Committee.

(e) If the number exceeds the maximum the election shall proceed by one of the following means, chosen in advance by the Kirk Session, and being either (i) the submission of the names by the Interim Moderator, one by one as they appear on the list, to the vote of the congregation, each member having the right to vote for up to the maximum number fixed for the Committee, and voting being by standing up, or (ii) a system of written ballot devised by the Kirk Session to suit the size of the congregation and approved by the Vacancy Procedure Committee or the Presbytery. In either case, in the event of a tie for the last place a further vote shall be taken between or among those tying.

(f) The Interim Moderator shall, at the same meeting or as soon thereafter as the result of any ballot has been determined, announce the names of those thus elected to serve on the Nominating Committee, and intimate to them the time and place of their first meeting; which may be immediately after the congregational meeting provided that has been intimated along with the intimation of the congregational meeting.

(3) Where there is an agreement between the Presbytery and the congregation or congregations that the minister to be inducted shall serve either in a team ministry
involving another congregation or congregations, or in a designated post such as a chaplaincy, it shall be competent for the agreement to specify that the Presbytery shall appoint up to two representatives to serve on the Nominating Committee.

(4) The Vacancy Procedure Committee shall, subject to the provisions of section 2 above, determine the number who will act on the Nominating Committee, being an odd number up to a maximum of thirteen.

(5) When the vacancy is in a linked charge, or when a union or linking of congregations has been agreed but not yet effected, or when there is agreement to a deferred union or a deferred linking, or where the appointment is to more than one post, the Vacancy Procedure Committee shall, subject to the provisions of section 2 above determine how the number who will act on the Nominating Committee will be allocated among the congregations involved, unless provision for this has already been made in the Basis of Union or Basis of Linking as the case may be.

(6) The Nominating Committee shall not have power to co-opt additional members but the relevant Kirk Session shall have power when necessary to appoint a replacement for any of its appointees who ceases, by death or resignation, to be a member of the Nominating Committee, or who, by falling ill or by moving away from the area, is unable to serve as a member of it.

16. Constitution of the Nominating Committee

It shall be the duty of the Interim Moderator to summon and preside at the first meeting of the Nominating Committee, which may be held at the close of the congregational meeting at which it is appointed and at which the Committee shall appoint a Convener and a Clerk. The Clerk, who need not be a member of the Committee, shall keep regular minutes of all proceedings. The Convener shall have a deliberative vote (if he or she is not the Interim Moderator) but shall in no case have a casting vote. If the Clerk is not a member of the Committee, he or she shall have no vote. At all meetings of the Committee only those present shall be entitled to vote.

17. Task of the Nominating Committee

(1) The Nominating Committee shall have the duty of nominating one person to the congregation with a view to the election and appointment of a minister.

(2) It shall proceed by a process of announcement in a monthly vacancy list, application and interview, and may also advertise, receive recommendations and pursue enquiries in other ways. The Nominating Committee shall make available to all applicants and enquirers the Profile and Appendix specified in section 12. Regardless of how such individuals may initially have been approached or identified, no individual shall be considered as a candidate for the vacancy unless he or she has first submitted a formal application.

(3) The Committee shall make themselves aware of the roles of the other members of any ministry team as described in section 16 of Act VII 2003 and may meet with them for this purpose, but shall not acquire responsibility or authority for the negotiation or alteration of their terms and conditions.

18. Eligibility for Election

The following categories of persons, and no others, are eligible to be nominated, elected, and called as ministers of parishes in the Church of Scotland, but always subject, where appropriate, to the provisions of Act IX 2002:

(1) A minister holding Category O registration, in terms of the Registration of Ministries Act (Act II 2017).
A minister who has applied for Category O registration, whose application is currently under consideration, provided that before the call can be sustained or the minister in question inducted, Category O registration must have been granted.

(a) A licentiate of the Church of Scotland who has satisfactorily completed, or has been granted exemption from, his or her period of probationary service.
(b) A Graduate Candidate holding a Graduate Candidate’s Certificate in terms of section 22 of Act X 2004.

The holder of a Certificate of Eligibility or of a Temporary Certificate of Eligibility, in either case in terms of Act IX 2002. The holder of a Certificate of Eligibility who is a national outside the European Economic Area and Switzerland shall be eligible to apply for charges only in terms of section 27 of Act VIII 2003.

For the avoidance of doubt anyone who has served as an Interim Moderator in the current vacancy will not be eligible to apply or to be considered as an applicant in terms of section 6(2) of this Act unless the conditions set out in section 6(3) apply.

Notwithstanding subsections (1) to (4) above, an individual shall not be eligible to apply, or to be considered as an applicant, while he or she is the subject of ongoing proceedings being undertaken in accordance with the Discipline of Ministry Act (Act III 2001) or the Discipline Act (Act I 2019).

Ministers occupying positions within a team ministry in the charge, or larger area including the charge, and former holders of such positions, shall be eligible to apply and shall not by virtue of office be deemed to have exercised undue influence in securing the call. A locum tenens in the vacant charge shall not by virtue of office be deemed to have exercised undue influence in securing the call.

A minister who holds a Temporary Certificate of Eligibility shall, if inducted to a charge, be inducted for a period of three years only, extendable on one occasion only in accordance with the provisions of section 6(b)(ii) of Act IX 2002.

Before the candidate is asked to accept Nomination, the Interim Moderator shall ensure that the candidate is given an adequate opportunity to see the whole ecclesiastical buildings (including the Manse) pertaining to the congregation, and to meet privately with all members of staff of the charge or of any wider ministry team. Furthermore, the candidate shall be provided with:
(a) a copy of the current Presbytery Plan and of any current Basis of Adjustment or Basis of Reviewable Charge;
(b) copies of the most recent annual report and accounts for each congregation of the charge, as approved by an independent examiner; and
(c) copies of the most recent quinquennial inspection reports in relation to the buildings of the charge.

The candidate shall acknowledge receipt of the above documents in writing to the Interim Moderator.

Before any Nomination is intimated to the Kirk Session and Presbytery Clerk, the Clerk to the Nominating Committee shall secure the written consent thereto of the nominee.
(3) Before reporting the Nomination to the Vacancy Procedure Committee, the
Presbytery Clerk shall obtain from the nominee or Interim Moderator evidence of
the eligibility of the nominee to be appointed to the charge.

   (a) In the case of a minister being a member of Presbytery, this shall constitute
       a certified extract from the Register of Ministry showing that the minister has
       Category O registration.

   (b) In the case of a minister not being a member of any Presbytery of the Church
       of Scotland, this shall constitute an Exit Certificate or Graduate Candidate’s
       Certificate in terms of Act X 2004, or a Certificate of Eligibility in terms of Act
       IX 2002.

   (c) In addition, in the case of a minister in the first five years of his or her first
       charge, an extract minute shall be obtained either from the Vacancy
       Procedure Committee of his or her current Presbytery, or from that
       Presbytery, exceptionally releasing the minister.

22. Preaching by Nominee

   (1) The Interim Moderator, on receiving notice of the Committee’s Nomination, shall
       arrange that the nominee conduct public worship in the vacant church or churches,
       normally within four Sundays, and that the ballot take place immediately after each
       such service.

   (2) The Interim Moderator shall thereupon cause intimation to be made on two
       Sundays regarding the arrangements made in connection with the preaching by
       the nominee and the ballot thereafter, all in terms of Schedule H hereto.

23. Election of Minister

   (1) The Interim Moderator shall normally preside at all congregational meetings
       connected with the election, which shall be in all cases by ballot, and shall normally
       be in charge of the ballot.

   (2) The Interim Moderator may invite one or more persons (not being persons whose
       names are on the Electoral Register of the vacant congregation) to assist him or
       her in the conduct of a ballot vote when he or she judges this desirable.

   (3) When a linking or a deferred union or deferred linking is involved the Interim
       Moderator shall consult and reach agreement with the minister or Interim
       Moderator of the other congregation regarding the arrangements for the conduct
       of public worship in these congregations by the nominee as in section 22(1) above.
       The Interim Moderator shall in writing appoint a member of Presbytery to take full
       charge of the ballot vote for the other congregation. In the case of a deferred
       union or deferred linking the minister already inducted shall not be so appointed,
       nor shall he or she be in any way involved in the conduct of the election.

24. Ballot Procedure

   (1) The Kirk Session shall arrange to have available at the time of election a sufficient
       supply of voting-papers printed in the form of Schedule I hereto, and these shall be
       put into the custody of the Interim Moderator who shall preside at the election,
       assisted as in section 23 above. He or she shall issue on request to any person
       whose name is on the Electoral Register a voting-paper, noting on the Register
       that this has been done. Facilities shall be provided whereby the voter may mark
       the paper in secrecy, and a ballot-box shall be available wherein the paper is to be
       deposited when marked. The Interim Moderator may assist any person who asks
       for help in respect of completing the voting-paper, but no other person whatever
       shall communicate with the voter at this stage. The Interim Moderator, or the
deputy appointed by him or her, shall be responsible for the safe custody of ballot-box, papers and Electoral Register.

(2) As soon as practicable, and at latest within twenty-four hours after the close of the voting, the Interim Moderator shall constitute the Kirk Session, or the joint Kirk Sessions when more than one congregation is involved, and in presence of the Kirk Session shall proceed with the counting of the votes, in which he or she may be assisted as provided in section 23 above. When more than one ballot-box has been used and when the votes of more than one congregation are involved, all ballot-boxes shall be emptied and the voting-papers shall be mixed together before counting begins so that the preponderance of votes in one area or in one congregation shall not be disclosed.

(3) A voting-paper shall only be considered as spoilt and the vote not counted where the intention of the voter is unclear, and in no other circumstances. It shall be for the Kirk Session, on the recommendation of the Interim Moderator, to determine whether the intention of the voter is clear.

(4) If the number voting For exceeds the number voting Against the nominee shall be declared elected and the Nominating Committee shall be deemed to be discharged.

(5) If the number voting For is equal to or less than the number voting Against, the Interim Moderator shall declare that there has been failure to elect and that the Nominating Committee is deemed to have been discharged. He or she shall proceed with the election of a fresh Nominating Committee in terms of section 15 above, without further reference to the Presbytery.

(6) After the counting has been completed the Interim Moderator shall sign a declaration in one of the forms of Schedule J hereto, and this shall be recorded in the minute of the Kirk Session or of the Kirk Sessions. An extract shall be affixed to the notice-board of the church, or of each of the churches, concerned. In presence of the Kirk Session the Interim Moderator shall then seal up the voting-papers along with the marked copy of the Electoral Register, and these shall be transmitted to the Presbytery Clerk in due course along with the other documents specified in section 29 below.

25. Withdrawal of Nominee
   (1) Should a nominee intimate withdrawal before he or she has preached as nominee, the Nominating Committee shall continue its task and seek to nominate another nominee.

   (2) Should a nominee intimate withdrawal after he or she has been elected, the Nominating Committee having been discharged, the Interim Moderator shall proceed with the election of a fresh Nominating Committee in terms of section 15 above, without further reference to the Presbytery.

26. The Call
   (1) The Interim Moderator shall, along with the intimation regarding the result of the voting, intimate the arrangements made for those on the Electoral Register of the congregation over a period of not less than eight days to subscribe the Call (Schedule K). Intimation shall be in the form of Schedule L hereto.

   (2) The Call may be subscribed on behalf of an individual on the Electoral Register not present to sign in person, provided a mandate authorising such subscription is produced as in Schedule M. All such entries shall be initialled by the Interim Moderator or by the member of the Kirk Session appending them.
(3) Those eligible to sign the Call shall be all those whose names appear on the Electoral Register. A paper of concurrence in the Call may be signed by persons associated with the congregation whose names have not been entered on the Electoral Register.

27. Applications from outwith the EEA and Switzerland

(1) Six months after the vacancy has first appeared in a monthly vacancy list, and provided there are no applications currently under the consideration of the Nominating Committee, the Kirk Session (or in the case of a linkage the Kirk Sessions in agreement) may apply to the Presbytery to have the charge listed for the purposes of this section.

(2) Such applications shall be considered by the whole Presbytery, and shall not form part of the remit of the Vacancy Procedure Committee.

(3) The Presbytery must be satisfied that there are no outstanding issues of superintendence, or other factors that would make such listing inappropriate, and must consult with the Ministries Council before deciding whether to permit the listing. The Presbytery Clerk shall send an extract minute of the decision to the Ministries Council.

(4) Upon receiving notification of the listing from the Presbytery, the Nominating Committee shall proceed again from section 17 of this Act, and holders of Certificates of Eligibility who are nationals of countries outwith the EEA and Switzerland shall now be eligible to apply.

(5) For the avoidance of doubt, the Nominating Committee (a) must always dispose of any competent applications received in terms of section 18 of this Act before considering those made in terms of this section, but (b) shall not be obliged to make a nomination from any particular group of applicants.

(6) When a Presbytery withdraws permission to call, or the permission expires in terms of section 28 of this Act, the Presbytery shall decide whether permission to proceed in terms of this section remains in force during the ensuing process to make a nomination.

28. Failure to Nominate

The exercise by a congregation of its right to call a minister shall be subject to a time-limit of two years; this period shall be calculated from the date when intimation is given of the agreement to grant leave to call.

If no election has been made and intimated to the Presbytery by the expiry of that time then the leave to call expires and the Presbytery shall review the matter. Thereafter the Presbytery may either (1) resolve to review the relevant aspects of the Presbytery Plan in accordance with the Appraisal and Adjustment Act (Act VII 2003) or (2) if the Presbytery is still satisfied that a minister should be appointed, resolve that the leave to call shall be reinstated and the Presbytery shall proceed in one of the following ways:

(a) grant an extension, which shall usually be for a further year and instruct the Kirk Session to revise and update the parish profile in line with the template published in the Guidelines for Kirk Sessions. If no appointment is made in this further period, the Presbytery shall proceed again in terms of this section of the Act and may select any option, including further extensions;

(b) instruct that a fresh Nominating Committee be elected in terms of section 15 above, subject to a further time-limit on the right to call of two years, calculated from the date that Presbytery so resolves. The process shall then be followed in terms of this Act from the point of the election of the Nominating Committee; or
(c) take steps to make such an appointment, proceeding as follows:–

(i) The Presbytery shall discharge the Nominating Committee, strengthen the Advisory Committee which had been involved in the case by the appointment of an additional minister and elder, instruct that Committee to bring forward to a subsequent meeting the name of an eligible individual for appointment to the charge and intimate this instruction to the congregation. If satisfied with the recommendation brought by the Advisory Committee, the Presbytery shall thereupon make the appointment.

(ii) The Presbytery Clerk shall thereupon intimate to the person concerned the fact of his or her appointment, shall request him or her to forward a letter of acceptance along with a certified extract from the Register of Ministry showing that the minister has Category O registration, and shall arrange with him or her to conduct public worship in the vacant church or churches on an early Sunday.

(iii) The Presbytery Clerk shall cause intimation to be made in the form of Schedule N that the person appointed will conduct public worship on the day specified and that a Call in the usual form will lie with the Session Clerk or other suitable person for not less than eight free days to receive the signatures of the congregation. The conditions governing the signing of the Call shall be as in section 26 above.

(iv) At the expiry of the time allowed, the Call shall be transmitted by the Session Clerk to the Presbytery Clerk who shall lay it, along with the documents referred to in sub-paragraph (ii) above, before the Presbytery at its first ordinary meeting or at a meeting in hunc effectum.

29. Transmission of Documents

(1) After an election has been made the Interim Moderator shall secure from the person appointed a letter of acceptance of the appointment and evidence of Category O registration in the form of a certified extract from the Register of Ministry.

(2) The Interim Moderator shall then without delay transmit the relevant documents to the Presbytery Clerk. These are: the minute of Nomination by the Nominating Committee, all intimations made to the congregation thereafter, the declaration of the election and appointment, the voting-papers, the marked copy of the Register, the letter of acceptance and evidence of Category O registration in the form of a certified extract from the Register of Ministry. He or she shall also inform the Clerk of the steps taken in connection with the signing of the Call, and shall arrange that, at the expiry of the period allowed for subscription, the Call shall be transmitted by the Session Clerk to the Presbytery Clerk.

(3) After the person elected has been inducted to the charge the Presbytery Clerk shall:

(a) deliver to him or her the approved copy of the Vacancy Schedule referred to in section 10(2) above, and

(b) destroy the intimations and voting-papers lodged with him or her in terms of subsection (2) above and ensure that confidential documents and correspondence held locally are destroyed.

30. Sustaining the Call

(1) All of the documents listed in section 29 above shall be laid before the Vacancy Procedure Committee which may resolve to sustain the Call and determine
arrangements for the induction of the new minister, subject to (a) a request for the release, if appropriate, of the minister from his or her current charge in terms of this Act and (b) the provisions of section 2 above. The Moderator of the Presbytery shall, if no ordinary meeting of the Presbytery falls before the proposed induction date, call a meeting pro re nata for the induction.

(2) In the event that the matter comes before the Presbytery in terms of section 2 above, the procedure shall be as follows:—

(a) The Call and other relevant documents having been laid on the table the Presbytery shall hear any person whom it considers to have an interest. In particular the Advisory Committee shall be entitled to be heard if it so desires, or the Presbytery may ask for a report from it. The Presbytery shall then decide whether to sustain the appointment in terms of subsection (1) above, and in doing so shall give consideration to the number of signatures on the Call. It may delay reaching a decision and return the Call to the Kirk Session to give further opportunity for it to be subscribed.

(b) If the Presbytery sustain an appointment and Call to a Graduate Candidate, and there be no appeal tendered in due form against its judgement, it shall appoint the day and hour and place at which the ordination and induction will take place.

(c) If the Presbytery sustain an appointment and Call to a minister of the Church of Scotland not being a minister of a parish, or to a minister of another denomination, and there be no ecclesiastical impediment, the Presbytery shall appoint the day and hour and place at which the induction will take place.

(3) In the event that the Call is not sustained, the Presbytery shall determine either (1) to give more time for it to be signed in terms of section 26 above or (2) to proceed in terms of subsection (1) or (2)(b) or (2)(c) of section 28 above.

(4) No Call shall be sustained until evidence that the new minister has Category O registration, in the form of a certified extract from the Register of Ministry, has been laid before the Vacancy Procedure Committee.

31. Admission to a Charge

(1) When the Presbytery has appointed a day for the ordination and induction of a Graduate Candidate, or for the induction of a minister already ordained, the Clerk shall arrange for an edict in the form of Schedule O to be read to the congregation on the two Sundays preceding the day appointed.

(2) At the time and place named in the edict, the Presbytery having been constituted, the Moderator shall call for the return of the edict attested as having been duly served. If the minister is being translated from another Presbytery, the relevant minute of that Presbytery or of its Vacancy Procedure Committee agreeing to translation shall also be laid on the table. Any objection, to be valid at this stage, must have been intimated to the Presbytery Clerk at the objector’s earliest opportunity, must be strictly directed to life or doctrine and must be substantiated immediately to the satisfaction of the Presbytery, in which case procedure shall be sisted and the Presbytery shall take appropriate steps to deal with the situation that has arisen. Otherwise the Presbytery shall proceed with the ordination and induction, or with the induction, as hereunder.

(3) The Presbytery shall proceed to the place of worship where public worship shall be conducted by those appointed for the purpose. The Clerk shall read a brief
narrative of the cause of the vacancy and of the steps taken for the settlement. The Moderator, having read the Preamble, shall, addressing him or her by name, put to the person to be inducted the questions prescribed (See the Ordinal of the Church as authorised from time to time by the General Assembly). Satisfactory answers having been given, the person to be inducted shall sign the Formula. If he or she has not already been ordained, the person to be inducted shall then kneel, if able to do so, and the Moderator by prayer and the imposition of hands, in which members of the Presbytery, appointed by the Presbytery for the purpose, and other ordained persons associated with it, if invited to share in such imposition of hands, shall join, shall ordain him or her to the office of the Holy Ministry. Prayer being ended, the Moderator shall say, “I now declare you to have been ordained to the office of the Holy Ministry, and in name of the Lord Jesus Christ, the King and Head of the Church, and by authority of this Presbytery, I induct you to this charge, and in token thereof we give you the right hand of fellowship”. The Moderator with all other members of Presbytery present and those associated with it shall then give the right hand of fellowship. The Moderator shall then put the prescribed question to the members of the congregation. Suitable charges to the new minister and to the congregation shall then be given by the Moderator or by a minister appointed for the purpose.

[This subsection is to be construed in conformity with Act III 2004]

(4) When an ordained minister is being inducted to a charge, the act of ordination shall not be repeated and the relevant words shall be omitted from the declaration. In other respects the procedure shall be as in subsection (3) above.

(5) When the appointment is for a limited or potentially limited period (including to a Reviewable Charge, or an appointment in terms of section 20 above) the service shall proceed as in subsections (3) or (4) above except that in the declaration the Moderator shall say “I induct you to this charge on the Basis of [specific Act and Section] and in terms of Minute of Presbytery of date …….”.

(6) After the service the Presbytery shall resume its session, when the name of the new minister shall be added to the Roll of Presbytery, and the Clerk shall be instructed to send certified intimation of the induction to the Session Clerk to be engrossed in the minutes of the first meeting of Kirk Session thereafter, and, in the case of a translation from another Presbytery or where the minister was prior to the induction subject to the supervision of another Presbytery, to the Clerk of that Presbytery.

32. Service of Introduction

(1) When a minister has been appointed to a linked charge the Presbytery shall determine in which of the churches of the linking the induction is to take place. This shall be a service of induction to the charge, in consequence of which the person inducted shall become minister of each of the congregations embraced in the linking. The edict regarding the induction, which shall be in terms of Schedule O, shall be read in all of the churches concerned. There shall be no other service of induction, but if the churches are far distant from one another, or for other good reason, the Presbytery may appoint a service of introduction to be held in the other church or churches. Intimation shall be given of such service, but not in edictal form.

(2) In any case of deferred union or deferred linking the minister elected and appointed shall be inducted “to the vacant congregation of A in deferred union (or linking) with
the congregation of B" and there shall be no need for any further act to establish
his or her position as minister of the united congregation or of the linked
congregation as the case may be. The Presbytery, however, shall in such a case
arrange a service of introduction to the newly united congregation of AB or the
newly linked congregation of B. Intimation shall be given of such service, but not
in edictal form.

(3) When an appointment has been made to an extra-parochial office wholly or mainly
under control of the Church (community ministry, full-time chaplaincy in hospital,
industry, prison or university, full-time clerkship, etc.) the Presbytery may deem it
appropriate to arrange a service of introduction to take place in a church or chapel
suitable to the occasion.

(4) When an appointment has been made to a parochial appointment other than that
of an inducted minister, the Presbytery may arrange a service of introduction to
take place within the parish. If ordination is involved, suitable arrangements shall
be made and edictal intimation shall be given in terms of Schedule P.

(5) A service of introduction not involving ordination shall follow the lines of an
induction except that instead of putting the normal questions to the minister the
Moderator shall ask him or her to affirm the vows taken at his or her ordination.
Where the service, in terms of subsection (3) or (4) above, includes the ordination
of the minister, the vows shall be put in full. In either case, in the declaration the
Moderator in place of “I induct you to .......” shall say, “I welcome you as .......”.

(6) When an appointment is for a limited or potentially limited period (including an
appointment in terms of section 20 above) the service shall proceed as in
subsection (4) and (5) above and the Moderator in welcoming the new minister
shall specify the basis of the appointment.

33. **Demission of Status**

If a minister seeks to demit his or her status as a minister of the Church of Scotland, any
accompanying demission of a charge will be dealt with by the Vacancy Procedure
Committee in terms of section 4 of this Act without further delay, but the question of
demission of status shall be considered by the Presbytery itself. The Moderator of
Presbytery, or a deputy appointed by him or her, shall first endeavour to confer with the
minister regarding his or her reasons and shall report to the Presbytery if there appears
to be any reason not to grant permission to demit status. Any decision to grant
permission to demit status shall be immediately reported to the Ministries Council.

34. **Guidelines**

(1) The Ministries Council and the Legal Questions Committee shall jointly prepare
and issue Guidelines for (a) Interim Moderators, (b) Kirk Sessions, (c) Nominating
Committees and (d) Advisory Committees, in order to facilitate procedures in
vacant congregations and also to expedite specific processes outlined in this Act.
Such Guidelines shall be kept under review and shall be updated periodically to
reflect current policy and practice.

(2) The above Guidelines shall be followed by the individuals and bodies named
above, who shall only depart from them with due cause and having first sought the
advice of the Vacancy Procedure Committee.

35. **Miscellaneous**

For the purposes of this Act intimations to congregations may be made (a) verbally
during every act of worship, or (b) in written intimations distributed to the whole
congregation provided that the congregation’s attention is specifically drawn to the
presence of an intimation there in terms of this Act.
For the purposes of this Act attestation of all intimations to congregations shall consist
of certification thereof by the Session Clerk as follows:—
(a) Certification that all intimations received have been duly made on the correct
number of Sundays shall be sent to the Presbytery Clerk before the service of
induction or introduction.
(b) Certification that any particular intimation received has been duly made on the
correct number of Sundays shall be furnished on demand to the Vacancy
Procedure Committee or the Presbytery Clerk.
(c) Intimation shall be made immediately to the Presbytery Clerk in the event that
intimation has not been duly made on the appropriate Sunday.

36. **Repeals and Amendments**
(1) Act V 1984 (as amended) is hereby repealed; it is hereby provided that all other
legislation prior to this Act shall be construed in conformity with this Act.
(2) Earlier Acts and Regulations are amended as follows:—
   (a) In sections 2 and 7 of Act XVIII 1932, delete the latter sentence of section 2
   and all of subsection 7(b).
   (b) In Act IV 1999 delete “Act V 1984 section 25 (3)” and substitute “section 29(3)
   of Act VIII 2003”.
   (c) In section 19(2) of Act II 2000 delete “section 2 (3) of Act V 1984” and
   substitute “section 7 of Act VIII 2003”.
   (d) In section 9 of Act XV 2002 delete “in terms of section 27 of Act V 1984”.
   (e) In section 12(i) of Act XIII 2000 and in section 2(i) of Regulations V 2000,
delete “sections 6-8 of Act V, 1984” and substitute “section 13 of Act VIII
2003”.
   (f) In section 2(2) of Act IV 2001, delete “in terms of Act V, 1984 section 27” and
   “in terms of the said Act V, 1984”.
   (g) In paragraph 1 of Schedule 3 to Act V 2002, delete “section 13 of Act V 1984”
   and substitute “section 17 of Act VIII 2003”.
   (h) In paragraph 2(ii) of Schedule 3 to Act V 2002, delete “Sections 6 to 8 of Act
   V 1984” and substitute “section 13 of Act VIII 2003”.
   (i) In section 2 of Act VII 2002, delete “Act V 1984 section 25” and substitute
   “section 29 of Act VIII 2003”.
   (j) In section 9 of Act XV 2002, delete “in terms of section 27 of Act V 1984”.
   (k) In Regulations II 1996 delete reference to Act V 1984 (as amended) and
(3) Notwithstanding subsection (1) above, the repeal of Act V 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 acquired
or incurred thereunder shall have effect as if the said Act had not been repealed.

37. **Interpretation**
For the purposes of this Act the Interpretation section (section 1) of Act VII 2003 will
apply.
SCHEDULES

A NOTICE OF DECISION OF VACANCY PROCEDURE COMMITTEE – Section 2(1)

To be read on one Sunday

Notice is hereby given that the Vacancy Procedure Committee of the Presbytery of ……… proposes [proposed course of action]. This action will proceed unless at least four persons, who are either communicant members of this congregation of X [and Y]* or full members of Presbytery, together or separately submit to the Presbytery Clerk a request for this proposal to be considered at the next meeting of the Presbytery. Any such request must set out the relevant reasons.

You should submit any such request in writing to [name and postal address of Presbytery Clerk] by [date seven days after date of this intimation].

If four valid requests are received, then [state the proposed course of action] will be suspended and the approval of Presbytery will be required.

A ………. B ………. Presbytery Clerk

*refer to other congregation(s) if a linked charge

NB this intimation is also to be displayed as prominently as possible at the church building for seven days

B NOTICE CITING A CONGREGATION TO ATTEND – Section 2(5)

To be read on one Sunday

Notice is hereby given that in connection with the [anticipated] vacancy in this congregation of X [and Y]*, a valid request has been made for the matter of [here insert action or permission which had been proposed] to be considered by the Presbytery. [The proposed course of action] is in the meantime suspended

The Presbytery will meet to consider this matter at ……….on ………. the ………. day of ………. at ………. o’clock. Any member of this congregation of X [and Y]* may attend that meeting and Presbytery shall hear any person whom it considers to have an interest.

A ………. B ………. Presbytery Clerk

*refer to other congregation(s) if a linked charge
C PREPARATION OF ELECTORAL REGISTER – Sections 14(1) and (2)

To be read on two Sundays

Notice is hereby given that in view of the [anticipated] vacancy in this congregation of X [and Y]*, the Kirk Session is about to make up an Electoral Register. This Electoral Register is a list of those who will be eligible to vote when the time comes to elect a Nominating Committee, and subsequently in the election of a new minister.

If your name and current address are already on the Communion Roll, then you will automatically be placed upon the Electoral Register. You will need to take no further action.

If you are a regular worshipper here, but are still a member of another congregation, and you wish to participate in the election of a minister to this congregation of X [and Y]*, then you should arrange to hand in to the Session Clerk a valid Certificate of Transference before the Kirk Session meets.

If you are a regular worshipper here, and not a member of this or any other congregation, then the Kirk Session can add your name to the Electoral Register as an "adherent". If you wish the Kirk Session to consider this, you should obtain a form from the Session Clerk, complete it and return it to [him or her] before the Kirk Session meets.

The Kirk Session will meet in ………. on ………. the ………. day of …………. at ………. to make up the Electoral Register
C ………. D ………. Interim Moderator

*refer to other congregation(s) if a linked charge

D FORM OF ADHERENT’S CLAIM – Section 14(1)

I, 1 ………. of 2 ………., being a regular worshipper in the Church of ………. and not being a member of any other congregation in Scotland, request to have my name put on the Electoral Register of the congregation of ………. as an adherent.

Date …………(Signed) …………..

1 Here enter full name in block capitals
2 Here enter address in full

E CONFIRMATION OF ELECTORAL REGISTER – Section 14(3)

To be read on one Sunday
Notice is hereby given that the proposed Electoral Register of this congregation of X [and Y]* has now been prepared.

If you believe that your name should be on the Register, you can ask for confirmation that it has been included immediately after this service [details of provision for this] or from the Session Clerk [details of how the Session Clerk can be contacted].

If your name is not on the proposed Electoral Register, and you believe it should be, you should inform the Session Clerk in writing before the Kirk Session meets to finalise the register on [date] at [place]. You are also welcome to attend that meeting, if you wish to make the case for your name being included.

C ........ D ........ Interim Moderator

*refer to other congregation(s) if a linked charge

F REVISION OF ELECTORAL REGISTER – Section 14(6)

To be read on two Sundays

Notice is hereby given that since more than six months have elapsed since the Electoral Register of this congregation of X [and Y]* was finally made up, it is now proposed that it should be revised.

If you believe that your name ought to be on the Register, you can ask for confirmation immediately after this service [details of provision for this] or from the Session Clerk [details of how the Session Clerk can be contacted].

If you find that your name does not appear, it can be added in the following circumstances:

If your name has been added to the full Communion Roll since the Register was drawn up, then your name will automatically be placed upon the Electoral Register on its revision. You will need to take no further action.

If you are a regular worshipper here, but are still a member of another congregation, then you should arrange to hand in to the Session Clerk a valid Certificate of Transference before the Kirk Session meets

If you a regular worshipper here, and not a member of this or any other congregation, then the Kirk Session can add your name to the Electoral Register as an “adherent”. If you wish the Kirk Session to consider this, you should obtain a form from the Session Clerk, complete it and return it to [him or her] before the Kirk Session meets.

The Kirk Session will meet in ........ on ........ the ........ day of .............. at ........ to revise the Electoral Register
G ELECTION OF NOMINATING COMMITTEE – Section 15(1)

To be read on two Sundays

Notice is hereby given that a meeting of this congregation of X [and Y]* will be held in the Church [or other arrangement may be given here] on Sunday ……. at the close of morning [or other main occasion of] worship for the purpose of appointing a Nominating Committee. The task of the Nominating Committee will be to nominate one person to this congregation of X [and Y]* to be the new minister.

At that meeting, the congregation shall be invited to elect [number of persons] people, who are on the Electoral Roll of this congregation of X [and Y]*, to serve on the Nominating Committee. If you wish to propose anyone to serve on the Committee you may do so at the meeting providing the person has indicated a willingness to serve.

H NOTICE OF NOMINATION – Section 22(2)

To be read on two Sundays

At a meeting held at………. on ……., the Nominating Committee chose the person who they wish to propose to this congregation of X [and Y]* to be our new minister. The name of the person proposed is 1 ………..

Arrangements have been made for [give name again], to conduct public worship in this Church on Sunday the ………. day of …………. at …………. o’clock.

Immediately after that service, there will be a vote on whether or not [Name] should be appointed as the new minister of this congregation of X [and Y]*. Anyone whose name appears on the Electoral Register of this congregation of X [and Y]* shall be entitled to vote. No-one else shall be entitled to vote.

C ………. D ………. Interim Moderator

*refer to other congregation(s) if a linked charge

1 The name and status of the person should at this point be entered in full
I VOTING-PAPER – Section 24(1)

<table>
<thead>
<tr>
<th>FOR Electing [Name]</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>AGAINST Electing [Name]</td>
<td></td>
</tr>
</tbody>
</table>

Directions to Voters – If you are in favour of electing [Name] put a cross (x) on the upper right-hand space. If you are not in favour of electing [Name] put a cross (x) in the lower right-hand space. Mark your voting-paper in this way with a cross, and put no other mark on your voting-paper or your vote may not be counted.

Note: The Directions to Voters must be printed prominently on the face of the voting-paper.

J DECLARATION OF ELECTION RESULT – Section 24(6)

I hereby declare the results of the voting for the election and appointment of a minister to the vacant charge of .................. 1 to be as follows.

FOR Electing [Name]: [No of votes]
AGAINST Electing [Name]: [No of votes]

EITHER

(1) Therefore, [Name] has accordingly been elected and appointed as the new minister subject to the approval of Presbytery

OR

(2) In consequence of this vote there has been a failure to elect. The Nominating Committee is deemed to have been discharged. [Continue in terms of Schedule G if appropriate.]

Date ..................
C .......... D .......... Interim Moderator

1 Here enter details

K THE CALL – Section 26(1)

Form of Call
We, members and adherents of the Church of Scotland and of the congregation known as ………. 1, being without a minister, address this Call to be our minister to you, [Name]……….., of whose gifts and qualities we have been assured, and we warmly invite you to accept this Call, promising that we shall devote ourselves with you to worship, witness, mission and service in this parish, and also to the furtherance of these in the world, to the glory of God and for the advancement of His Kingdom.

1 Here enter details

Paper of Concurrence

We, persons associated with the congregation of the Church of Scotland known as ………. 1 concur in the Call addressed by that congregation to [Name]……….. to be their minister.

1 Here enter details

Note: The Call and Paper of Concurrence should be dated and attested by the Interim Moderator before they are transmitted to the Clerk of the Presbytery.

L SUBSCRIBING THE CALL – Section 26(1)

To be read on at least one Sunday

Notice is hereby given that this congregation of X [and Y]* has elected [Name] to be our new minister and a Call to the said [Name] has been prepared. This Call will lie in [Place]……….. from………… the ………….day of [Month]……….. until [Date which is at least eight days later], between the hours of ………. and ………….. . During that time any person whose name is on the Electoral Register of the congregation may sign the Call in person or by means of a mandate.

If a mandate is to be used, the relevant form may be obtained from the Session Clerk.

A paper of Concurrence will also be available for signature by any person who is connected with the congregation but whose name is not on the Electoral Register of the congregation. Children are also welcome to add their names to this paper.

C ………. D ………. Interim Moderator

*refer to other congregation(s) if a linked charge

M MANDATE TO SIGN CALL – Section 26(2)

I,1 ………. of 2……….., being a person whose name is on the Electoral Register of the congregation, hereby authorise the Session Clerk, or other member of Session, to add my name to the Call addressed to [Name] to be our new minister.
1 Here enter full name in block capitals
2 Here enter address in full

N CITATION IN CASE OF NOMINATION BY PRESBYTERY – Section 28(c)(iii)

To be read on one Sunday

Notice is hereby given that [Name], whom the Presbytery has appointed to be minister of this congregation of X [and Y] * will conduct public worship in the Church on Sunday the .......... day of .......... at .......... o’clock.

A Call addressed to the said [Name] will lie in [Place]........... from ........... the ........... day of ........... between the hours of ........... and ........... during the day and between the hours of ........... and ........... in the evening, until [Date which is at least eight days later]. During that time any person whose name is on the Electoral Register of the congregation may sign the Call in person or by means of a mandate.

If a mandate is to be used, the relevant form may be obtained from the Session Clerk.

A paper of Concurrence will also be available for signature by any person who is connected with the congregation but whose name is not on the Electoral Register of the congregation. Children are also welcome to add their names to this paper.

The Presbytery will meet to deal with the appointment and Call at .......... on .......... the ........... day of .......... at .......... o’clock. Any member of the congregation may attend that meeting.

A .......... B .......... Presbytery Clerk

*refer to other congregation(s) if a linked charge

O NOTICE OF INDUCTION – Section 31(1) and section 32(1)

To be read on two Sundays

Notice is hereby given that the Presbytery of ............... has received a Call from this congregation of X [and Y]* addressed to ....................... [Name] to be the new minister. This Call has been sustained as a regular Call, and has been accepted by him/her1.

The Presbytery, having judged the said .........................[Name] qualified for the ministry of the Gospel and2 for this charge, has resolved to proceed to his/her [ordination and] induction3 on .........................[day of the week] the ...........[date] day of
................[month] at ................[time] o’clock. The only circumstance in which this would not occur is if an objection occurs which may reasonably impede it.

Notice is given that if any member of this congregation of X [and Y]*, has objection to the life or doctrine of the said …………………………….. [Name] you should intimate your objection at the earliest opportunity to the Presbytery Clerk. If you do this, you will also need to submit to the Presbytery Clerk appropriate evidence to substantiate your objection.

The Presbytery is to meet at ………..[time] on ………..[date as above]. If an objection is not notified in advance but is first brought at that meeting the objector must satisfy the Presbytery that there was no earlier opportunity to bring the objection to the attention of the Presbytery Clerk.

Unless a substantiated objection is made which is then upheld, the Presbytery shall proceed to [ordination and] induction3 of the said …………………………………….[Name] without further delay.

By order of the Presbytery
A……………..B……………Presbytery Clerk

1 Add, where, appropriate, “and his/her translation has been agreed to by the Presbytery of…….."
2 Omit “for the ministry of the Gospel and” if this minister to be inducted has been ordained previously
3 Omit, where appropriate, “ordination and”

*refer to other congregation(s) if a linked charge

P NOTICE OF ORDINATION IN CASE OF INTRODUCTION – Section 32(4)

To be read on two Sundays

Notice is hereby given that a service of introduction is to take place because [narrate circumstances requiring service of introduction]. The Presbytery has found that the said [Name] has been regularly appointed and is qualified for the ministry of the Gospel and for the said appointment. The Presbytery has resolved to proceed to his or her ordination to the Holy Ministry and to his or her introduction as [specify appointment].

This ordination and introduction will take place on .......... the .......... day of ........... at .......... o’clock, and will proceed unless an objection occurs which may reasonably impede it.

Notice is given if any member of this congregation of X [and Y]* has anything to object to in the life or doctrine of the said [Name], you may appear at the Presbytery meeting at .......... on .......... the .......... day of .......... at .......... o’clock to state your objection. Any objection which is made must be substantiated.
Unless a substantiated objection is made which is then upheld, the Presbytery will proceed to ordination and introduction of the said ……………………….[Name] without further delay.

By order of the Presbytery

A .......... B .......... Presbytery Clerk
*refer to other congregation(s) if a linked charge

Edinburgh, 22 May 2003 Session VII

The General Assembly enact and ordain as follows:–

1. Definitions
Section 1(a) to (c) and (f) to (i) of Act X 2004 shall apply to the Auxiliary Ministry. In addition the following definitions shall apply:–

The Committee is the Candidate Supervision Committee of the Ministries Council, or such other Committee as the Ministries Council may, from time to time, charge with responsibility for overseeing Candidates for the Auxiliary Ministry;

Presbytery of the bounds is the Presbytery containing the larger or largest part of the area of the Auxiliary Minister’s responsibilities.

2. Appointments and Reviews
   (a) An Auxiliary Minister may serve in one or more Presbyteries of the Church of Scotland, undertaking such designated appointments as the Presbyteries may from time to time determine after approval from the Kirk Session of any congregation to which an appointment is proposed.
   (b) The conditions regulating each designated appointment shall be defined in writing by the Presbytery of the bounds in consultation with the Auxiliary Minister and all interested parties including relevant Kirk Sessions.
   (c) The Presbytery of the bounds shall be entitled at any time to carry out a review of any designated appointment, and in the light of such review to (a) suspend or terminate the appointment; (b) renew the appointment; (c) vary the conditions regulating the appointment.
   (d) When an Auxiliary Minister ceases to serve in a designated appointment then he or she shall become subject to section 19 of the Registration of Ministries Act (Act II 2017).

3. Relationship with Courts of the Church
   (a) An Auxiliary Minister shall be associated with the Kirk Session of any Parish or Parishes within which he or she is to operate. He or she shall be entitled to membership of Presbytery. Where an Auxiliary Minister serves in more than one Presbytery, he or she shall have membership of the Presbytery of the bounds. Where there is an equal division of responsibilities between designated appointments, the Auxiliary Minister shall choose the Presbytery of which he or she is a member but shall be subject to both or all Presbyteries.
   (b) On retirement from an appointment, an Auxiliary Minister shall be subject to the provisions of section 14 of Act III 2000 as amended.

4. In-Service Training
   While in active service, Auxiliary Ministers shall attend those in-service courses provided by the Ministries Council deemed appropriate for Auxiliary Ministers. Such attendance shall be at a level of at least one training course in each two-year period.
5. Remuneration
   (1) Auxiliary Ministry is a non-stipendiary form of ministry and no remuneration shall be offered which is directly related to the appointment as an Auxiliary Minister.
   (2) An Auxiliary Minister shall be entitled to a regular Pulpit Supply Fee when conducting worship other than in his or her regular appointment.
   (3) Remuneration for any other appointment, for example as a Locum or in chaplaincy which the Presbytery has approved in addition to the designated appointment, shall be at the normal rates set by the Church from time to time.
   (4) Reasonable expenses incurred wholly and necessarily in the course of duties shall be reimbursed at the rates printed annually in the report of the Council to the General Assembly.
   (5) The Ministries Council shall offer to every Auxiliary Minister in a designated appointment an annual resource grant at an amount to be fixed annually by the Council and reported to the General Assembly. The grant will be available for the purchase of resources (e.g., books; computer hardware or software; periodicals) to be used in the fulfillment of ministerial duties. The grant shall be awarded on the production of receipts. The Council shall be entitled to seek contributions towards such grants from the Presbytery or Presbyteries designating the Auxiliary Minister's appointment.

6. Transfer to the Full-Time Ministry
   In a situation where an Auxiliary Minister desires to transfer to the Ordained National Ministry, the following procedure shall apply:
   (a) The Auxiliary Minister shall inform the Council of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;
   (b) Having established eligibility, the Council shall arrange for the Auxiliary Minister to undergo an Assessment Panel in the form of an interview with a psychologist and an interview with two national assessors;
   (c) At the interviews attention shall be paid to the Auxiliary Minister's reasons for his or her wish to transfer, his or her gifts of leadership shall be assessed and his or her understanding of ministry shall be examined;
   (d) If the person is accepted by the Assessment Panel as a prospective candidate for the Ordained National Ministry then that person will thereafter follow the appropriate procedure under Act X 2004, including, though not restricted to, the requirement for nomination by Presbytery as a candidate for the Ordained National Ministry in terms of sections 7 to 11 of that Act and such requirements for education and training as may be determined by the Council, having regard to all the circumstances in each particular case;
   (e) If the person is not accepted by the Assessment Panel as a prospective candidate for the Ordained National Ministry then that person may apply again to transfer to Ordained National Ministry, up to three times in total, but that number shall be reduced by any previous applications made at any time for Ordained National Ministry or for transfer to Ordained National Ministry. A fourth application shall be possible only with the prior approval of the Committee.
(f) If the person is not at any time accepted by the Assessment Panel as a prospective candidate for the Ordained National Ministry then such decision shall not affect the person’s status as an Auxiliary Minister.

(g) A decision of the Assessment Panel not to accept a person as a prospective candidate for the Ordained National Ministry shall be final and binding on the applicant, subject only to appeal to the Ministries Appeal Panel in terms of Act VI 2007 on the following grounds: (a) an error in Church law; (b) breach of the principles of natural justice or material irregularity of process; and (c) decision influenced by incorrect material fact. The intention to appeal shall be intimated by the applicant to the Council within 21 days of the Assessment Panel’s decision.

7. **Repeal**
   Act III 1987 and Regs III 1987 (as amended) are hereby repealed.
V. INTIMATION OF APPEALS ACT (ACT V 2004) (AS AMENDED BY ACT V 2012 AND ACT III 2013)

Edinburgh, 15 May 2004, Session I

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

Right to appeal from decision
1. As from the date of this Act, and subject to the exclusions and qualifications in sections 3 and 4, a person with a legitimate interest and aggrieved by a decision of a court may within seven days of the decision intimate an appeal against that decision by Note of Appeal. The Note of Appeal shall set out in brief specific numbered propositions the grounds on which the appeal is taken. Such an appeal can be brought only on one or more of the following grounds: (a) an error in Church law; (b) breach of the principles of natural justice or material irregularity of process; (c) decisions influenced by incorrect material facts; and, (d) any sanction imposed is excessive. The Appellant shall intimate the appeal by delivering the Note of Appeal to the clerk of the court against whose decision the appeal is taken.

2. The Clerk of a court shall advise persons present at the hearing at which the court takes the decision of their right to appeal under this Act.

Exclusions and qualifications
3. The right of appeal conferred in section 1 shall not apply to the members of the court which took the decision in question. Such persons will have the right to dissent and complain.

4. The right of appeal conferred in section 1 does not apply where the Acts and Regulations of the General Assembly specifically provide another appeal procedure.

Interim regulation
5. The court against whose decision an appeal is taken under this Act shall have power, on their own initiative or on the application of an interested person, to regulate matters relating to the decision, including giving interim effect to the decision, pending the determination of the appeal.

Interpretation
6. In this Act “court” means a Kirk Session only.
VI. KIRK SESSION MEETINGS ACT (ACT VI 2004) (AS AMENDED BY ACT I 2011)

Edinburgh, 15 May 2004, Session 1

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

General Provisions

1. For all purposes except as otherwise provided in this Act, the minister of a charge is the Moderator of the Kirk Session and in particular has responsibility for the calling of meetings and for the duties of the Moderator
   (a) in relation to discipline as outlined in the Basis and Plan of Union of 1929;
   (b) in respect of the ordination of elders in terms of Act X 1932 (as amended); and
   (c) in relation to the admission of communicants to Church membership upon profession of faith.

2. Nothing in this Act shall affect the functions of the minister as defined in sections 4 - 14 of the Parish Ministry Act (Act II 2018) and of the Kirk Session as defined in section 37 of the Church Courts Act (Act III 2000) (as amended) or as each are contained in the common law and custom of the Church; and nothing shall affect the constitution of the Kirk Session as consisting of the minister and elders.

3. The provisions of this Act shall not apply to Kirk Sessions in units of HM Forces (Act VIII 1952) or to New Charges not yet raised to full status (Act XIII 2000).

Part I Elder or member of the Diaconate moderating Kirk Session meeting

4. With the approval of the minister and of the Kirk Session (at a previous meeting thereof), or upon the instruction of a superior court, another current member of the Kirk Session, a member of the Diaconate who is associated with but not an appointee of the Kirk Session, or a minister associated with it may moderate any meeting of the Kirk Session on a date appointed by the Kirk Session. No status, powers, privileges or responsibilities are conferred upon any such elder, deacon or minister apart from the extent necessary to act as Moderator of the meeting, and to this extent such an elder, deacon or minister shall bear all the responsibilities normally borne by the minister for the orderly conduct of business and for the observance of the common law and the legislation, regulations and Deliverances of its superior courts. Whilst moderating a meeting of the Kirk Session, an elder, or a deacon or minister associated with the Kirk Session, shall have a casting vote but no deliberative vote.

5. No elder shall be appointed to moderate any meeting of a Kirk Session who has not satisfied the Presbytery of the bounds that he or she has adequately completed a course of training in Church law and procedure provided by the Legal Questions Committee and kept such training up to date, with the costs of such training borne by the congregation.

6. For the avoidance of doubt, more than one elder in a Kirk Session may be trained and utilised for the purposes of this Act.

7. The Session Clerk, if a member of the Kirk Session, shall not moderate a meeting as
clerk, but may be appointed in terms of this Act in his or her own right, and shall normally arrange for the Minutes of the meeting to be taken by a substitute clerk.

8. On those occasions on which the minister is present at a Kirk Session meeting but not moderating it, he or she shall have a seat in the Kirk Session and for this purpose shall have capacity separate from that of minister of the parish or member of the Presbytery. For the avoidance of doubt, since the minister is not a ruling elder he or she cannot be Commissioned as such to the Presbytery or the General Assembly.

9. The approval of the minister and the Kirk Session in terms of section 4 above may be a standing approval for a fixed period in respect of any meeting during that period; and the minister or the Kirk Session may rescind approval in terms of this Act at any time. The Presbytery in the exercise of its superintendence over the Kirk Session may remove the approval or revoke the instruction in terms of section 4 above, whether originally given by the Kirk Session or by the Presbytery.

Part II Absence of Minister from Kirk Session meeting

10. It shall be lawful for the minister to authorise a Kirk Session meeting to be held in his or her absence and moderated by a member of the Kirk Session or a minister or deacon associated with it (subject to the provisions of Part I of this Act), all subject to the following provisions.

11. (1) Such authorisation shall be in writing to the minister, deacon or elder acting as Moderator of the meeting, and shall specify the meeting or meetings to which the authorisation relates and the business to be transacted, and the facts shall be recorded in the Minutes of the Kirk Session and intimated to the Presbytery Clerk.

(2) As the Kirk Session consists of the minister and elders, any decision taken in the absence of the minister, being a decision of which the minister did not have notice in advance of the meeting, shall not take effect until it has been agreed in writing by the minister (the written agreement to be delivered as soon as possible to the Session Clerk) or ratified at a meeting at which the minister is present. In either event, the fact shall be recorded in the Minutes of the Kirk Session.

12. In implementation of the provisions of section 11(2) above, or in any other circumstance, it shall be competent for such a meeting of the Kirk Session to request the presence of the minister at a subsequent meeting, and to give powers to the Session Clerk to arrange that meeting if necessary.

13. It shall be competent for a minister to give authorisation, for a single occasion or on a standing basis, to an elder appointed in terms of section 4 above or any other minister of the Church or any member of the Diaconate who is not an appointee of the Kirk Session, to moderate a Kirk Session meeting in circumstances when the minister is unexpectedly unable to attend a meeting and unable to give permission in terms of sections 10 and 11(1) above; but this authorisation shall be subject to the terms of section 11(2) above.

14. In the absence of the minister, the quorum of the Kirk Session shall be three elders.
Miscellaneous
15. All Acts and Regulations of the General Assembly shall be interpreted consistently with this Act except as herein provided.

16. Notwithstanding the foregoing it shall be competent for a minister of another Church to act as Moderator of a Kirk Session in an ecumenical parish or united congregation or other association provided always that such minister is a member of a team along with a minister or ministers of the Church of Scotland in that ecumenical parish or united congregation or other association and that the arrangement for such minister to moderate a Kirk Session shall be incorporated in or added to the constitution of and shall apply only to such ecumenical parish or united congregation or other association and shall have the duly minuted approval of the Presbytery of the bounds.

17. The provisions of this Act shall apply mutatis mutandis to the chairing of a meeting of the congregation.

18. The provisions of this Act shall apply mutatis mutandis where the Moderator of the Kirk Session (as defined in section 1 above) is an interim Moderator, whether or not he or she is a minister.

19. For the avoidance of doubt and throughout this Act, the word ‘deacon’ refers to members of the Diaconate and not to members of Deacons’ Courts.

Amendments and Repeals
20. Act II 1984 anent Presbytery Visits to Congregations (as amended) is hereby further amended by the addition in section 7, after ‘office-bearers’, of the words ‘, any elder or deacon currently authorised to moderate meetings of the Kirk Session’.


22. Section 34 of Act III 2000 (Consolidating Act anent Church Courts) is hereby repealed.
The General Assembly hereby enact and ordain as follows:

Definitions
1. In this Act the following definitions apply:

   (a) “The Council” is the General Assembly’s Ministries Council responsible for recruitment, selection and training for the full-time ministry.

   (b) “The Committee” is the Committee to which the Council delegates authority to determine matters relating to assessment and selection, and to university courses and practical training requirements in preparation for ministry.

   (c) “The Assessment Conference” is the body of trained Assessors to which the Committee delegates authority to assess the calling and fitness of applicants for all forms of ministry (in terms of 6(1)), and to accept as prospective candidates those deemed appropriate.

   (d) “Ministry” is the full-time ministry of inducted parish ministers, and other posts requiring the same training and qualifications.

   (e) This definition was repealed by Act XI 2014.

   (f) “Applicants” are persons who are seeking to be recognised as candidates for the ministry.

   (g) “Prospective Candidates” are persons who have been accepted by the Committee and who are awaiting the outcome of their application to Presbytery for nomination.

   (h) “Candidates” are persons who have been both accepted by the Committee and nominated by their Presbytery. The term “Candidate” may not be used of or by any person who has yet to be, or who has failed to be, nominated by Presbytery.

   (i) “Probationers” are persons currently undertaking the full-time probationary placement of fifteen months described in Section 17(1).

   (j) “Graduate Candidates” are those who have completed their training and received Exit Certificates in terms of Section 22, but who have not yet been ordained. The term is to be applied without limit of time to anyone in this situation.

   (k) “Accredited institutions” are academic institutions accredited by the Council for the academic formation of candidates.”

   (l) “Recognised institutions” are academic institutions recognised by the Council for the purposes of paragraph 12(1)(c) and sub-paragraph 12(1)(f)(ii) below.

   (m) “UK State Pension Age” means a person’s UK State Pension Age as determined at the relevant time by the UK Government’s calculations.  

Vocation Information Day and Initial Screening Interview
2. (1) A person wishing to apply for the Ministry of the Church of Scotland shall have a Discernment Conversation with a staff member of the Recruitment Team to determine how they will proceed, and should they subsequently make application, this will be followed by an Initial Screening Interview arranged by the Council.

4 Ascertained currently by the calculator found on the gov.uk website.
A person deemed ready to proceed after that interview shall be entitled to apply in terms of section 4 to be recognised as a Candidate for the Ministry. Any person who makes such an application shall be known as an applicant.

A person who is not deemed ready to proceed after that interview must wait a period of between one and three years, as notified to that person by the Committee in writing, before they may again attend an Initial Screening Interview. If at a second Initial Screening Interview a person is again deemed not ready to proceed, they must wait a further period of between one and three years, as notified to that person by the Committee in writing, and may then attend a third Initial Screening Interview. If such person is still deemed not ready to proceed at the third Initial Screening Interview, then they shall not be entitled to attend any further Initial Screening Interview and their application for the Ministry of the Church of Scotland shall not proceed any further.

The outcome of each Initial Screening Interview shall be final and not subject to any form of review or appeal.

**Age, Time and Membership Limits for Applicants**

3.  (1) The Committee will not consider an application from any person who has not attained the age of eighteen years by the date on which the Committee receives the application.

(2) The Committee will not normally consider an application from any person who has not been either a member or adherent of the Church of Scotland, or who has not been a member of a denomination belonging to the World Communion of Reformed Churches (WCRC), in any case for a period of 3 years immediately prior to receipt of the application.

(3) The Committee will not consider an application from any person who in all normal circumstances could not complete the prescribed course before 31 December in the year which is 10 years before the calendar year in which that person will reach UK State Pension Age. The acceptance of a candidate who has delayed commencement of the prescribed course will be discontinued if in all normal circumstances that course could not be completed before 31 December in the year which is 10 years before the calendar year in which that candidate will reach UK State Pension Age.

(4) The acceptance of a candidate may be reviewed by the Committee if the prescribed course has not been commenced within three years of acceptance.

**Submission of Application Form**

4.  (1) The Council will, on request, issue to each applicant who has fulfilled the requirements as set out in sub-section 2(2) the relevant application form, which shall be completed by the applicant and sent to the Committee by the date determined and supplied by the Council.

(2) The Council will inform Presbyteries of applicants within their bounds, the appropriate Presbytery being determined according to section 8 of this Act.

**Period of discernment and Local Review**

5.  (1) Following the Council’s receipt of their application, the applicant will enter a period of discernment with a Local Mentor. During the period of discernment, the applicant and the Local Mentor shall explore together the nature of the applicant’s call and gifting. The period of discernment shall last for three to six months. The Local Mentor will be chosen by the Committee and shall undertake such training
as may from time to time be specified by the Committee. The Local Mentor shall be responsible for supervising the period of discernment according to the guidelines and standards established by the Committee, and shall produce assessment materials as required using such Indicators for Assessment document as may be from time to time in use by the Council. During the period of discernment the applicant shall also meet regularly with a representative (or representatives) of Presbytery.

(2) At the end of the period of discernment the applicant shall proceed to a Local Review. The Local Review will be undertaken by a group consisting of up to two assessors appointed by the Council, the Local Mentor and up to two representatives appointed by the Presbytery.

(3) In addition, before the end of a period of discernment, the Presbytery or the Council may require that an early Local Review takes place. Such a Review shall be undertaken by the same group as specified in section 5(2) but may only reach a decision in terms of section 5(4) (ii), (iii) or (iv). Sections 5(5) and 5(6) shall still apply.

(4) Subject to the provisions of section 5(3), arising out of the Local Review, one of the following written decisions shall be reported by the Review to the Committee:
   (i) That the applicant is ready to proceed to National Assessment in terms of section 6;
   (ii) That the applicant should undergo a further period of discernment of such length as may be determined by the Local Review before a decision to proceed to National Assessment can be made;
   (iii) That the applicant is not yet ready to proceed to National Assessment in terms of Section 6;
   (iv) That the applicant is not suitable to proceed to National Assessment in terms of section 6.

(5) Applicants in respect of whom a decision is made in terms of paragraph 5(4)(iii) may apply, in each case from one year after the decision of the previous Local Review, to undertake up to two further periods of discernment.

(6) An applicant shall have the right to request a Committee Review by the Committee in relation to a decision made in terms of paragraph 5(4)(iv). Notification of the intention to request a Committee Review shall be made to the Ministries Council within 28 days of the decision being intimated. The applicant shall be entitled to appear in person and the Chair of the Local Review shall also appear to present the case for the Local Review decision. The applicant may be accompanied by a companion, who shall not be entitled to speak. The decision of the Committee shall be intimated to the applicant within three working days of the Committee Review. If the applicant is dissatisfied with the outcome of the Committee Review, he or she may appeal to the Ministries Appeal Panel in terms of sub-sections 6(5) and 6(6).

(7) (i) All materials received by the Committee from the Local Review in terms of sub-section (4) above shall be available to those making consideration in terms of sub-section 6(1).
   (ii) No individual shall serve as an assessor for the same applicant more than once.

**National Assessment**
6. (1) The Committee shall make suitable arrangements for the careful consideration of the applicant’s character and beliefs, vocation, motivation and general suitability, shall be responsible for accepting or not accepting the applicant as a prospective candidate for the ministry and shall inform the Presbytery of this decision. The Committee may delegate to the Assessment Conference powers to reach decisions on its behalf. Notwithstanding its responsibilities in terms of sub-section 5(2) above, the Presbytery shall be entitled to submit to the Committee written comments on the applicant’s character and beliefs, vocation, motivation and general suitability. The Conference shall report its decision to the Committee which shall pass the names of prospective candidates to the Presbytery for nomination as candidates in training for the ministry.

(2) All applicants who are accepted as candidates shall receive, as part of their training and development, feedback from the Committee on their assessment. Applicants who have not been accepted as prospective candidates shall be offered the opportunity to receive, through the Committee, feedback outlining the reasons for their non-acceptance.

(3) An applicant who has not been accepted as a prospective candidate may reapply to be considered on up to two further occasions, provided that at least one year elapses between each application. An applicant who has been considered by the Committee on three occasions without being accepted as a prospective candidate may submit a fourth application only with the prior approval of that Committee.

(4) An applicant who has not been accepted by an Assessment Conference of the Ministries Council shall have the right to request a Committee Review by the Committee subject to the provisions of sub-section 6(6). No person who was part of the decision making process of the Conference shall be part of the review process. Notification of the intention to request a Committee Review shall be made to the Ministries Council within 28 days of the intimation of the decision. At the Committee Review the applicant is entitled to appear in person and to address the Committee. He or she may be accompanied by a companion, who shall not be entitled to speak. A representative shall also appear to present the case for the decision reached in terms of sub-section 6(1). All parties will be in possession of the reports from the Local Review and the Assessment Conference. If the applicant is dissatisfied with the outcome of the Committee Review, he or she may appeal in terms of sub-section 6(6).

(5) An applicant intending to appeal to the Ministries Appeal Panel against a Committee Review in terms of sub-section 6(4) above may do so subject to sub-section 6(6), and shall intimate such intention within 21 days to the Ministries Council.

(6) A Committee Review in terms of sub-section 5(5) or 6(4), or an appeal in terms of sub-section 5(5) or 6(5), can only be brought on one or more of the following grounds: (a) that in the course of the Local Review or National Assessment Conference there were irregularities in the process, (b) that the final decision was influenced by incorrect material fact, or (c) that the Local Review or National Assessment Conference acted contrary to the principles of natural justice. For the avoidance of doubt, it shall be competent for the purposes of this Act to appeal against a decision made in the name of the Ministries Council, and the relevant provisions of Act VI 2007 anent the Ministries Appeal Panel shall apply.

(7) If the decision at a Committee Review in terms of section 6(4) or at a Ministries Appeal Panel following on from such a Review is to annul the applicant’s
attendance at a National Assessment Conference ("Conference A") and enable
the applicant to attend a further National Assessment Conference as if the
applicant had not attended Conference A, then additionally and at its sole
discretion, the Committee or the Panel shall have the power to direct that for the
purposes of section 3(3) of this Act, the applicant shall be treated as having one
additional year to complete the prescribed course. Such a direction may be made
once only in respect of any particular applicant.

Nomination by the Presbytery

7. A prospective candidate seeking nomination by the appropriate Presbytery as a
candidate for the ministry of the Church of Scotland shall apply in writing to that
Presbytery as soon as, but not before, the Council indicates acceptance as a
prospective candidate for the ministry.

8. Application for nomination shall normally be made to the Presbytery within whose
bounds is situated the congregation of which the prospective candidate is a
communicant member. Where a prospective candidate is not yet a communicant
member of the Church of Scotland and does not reside within the bounds of any of the
Presbyteries of the Church of Scotland, intimation of intention to seek a Presbytery’s
nomination shall be made in the first instance to the Presbytery of Edinburgh. With the
written agreement of that Presbytery such an application may at the appropriate juncture
be considered by the Presbytery within whose bounds is situated the University at which
the prospective candidate proposes to study, or by the Presbytery within whose bounds
he or she fixes his or her residence, always provided that nomination does not precede
communicant membership of the Church of Scotland.

9. If satisfied with the prospective candidate’s character and beliefs, vocation, motivation
and general suitability, the Presbytery shall then nominate him or her as a candidate for
the ministry and shall give notice of such nomination to the Ministries Council forthwith.

10. A prospective candidate who has been refused nomination by the Presbytery has the
normal right of appeal to the Commission of Assembly. The prospective candidate may
in any event submit a re-application for nomination on up to two further occasions,
provided that at least one year elapses between each application.

11. Not later than 30 November in each year, the Committee shall draw up a list of persons
who have become candidates, and their Presbyteries, and shall send a copy of same to
the Clerk of each Presbytery of the Church. (Such a list shall include any previous
surnames of candidates where appropriate.) A Presbytery making objection shall do so
not later than 28 February, and, if it so wishes, may appoint Commissioners in support
of its objection, and such Commissioners shall be heard by the Presbytery receiving the
objection. Having considered the objection the Presbytery shall proceed in one of the
following ways:

   Dismiss the objection.
   Sustain the objection and discontinue its nomination of the candidate.

The Presbytery’s decision is subject to the normal rights of appeal or dissent and
complaint to the Commission of Assembly.
The Course

12. (1) Immediately following acceptance as a prospective candidate, each candidate shall, for the purposes of section 13(a) below, have a course prescribed by the Committee from amongst the following Courses:

(a) Course A shall be followed by candidates who possess a degree (or equivalent qualification recognized by the Council for that purpose) in a discipline other than theology; and shall consist of three years’ full-time undergraduate study at an accredited institution leading to the attainment of the BD degree, subject to the provisions of section 14 below.

(b) Course B shall be followed by candidates who do not possess a degree (or equivalent qualification recognized by the Council for that purpose); and shall consist of four years’ full-time undergraduate study at an accredited institution leading to the attainment of the BD degree, subject to the provisions of section 14 below.

(c) Course C shall be followed by candidates who possess a degree (or equivalent qualification) in theology from a recognised institution; and shall normally consist of two years’ full-time postgraduate study at an accredited institution, being a course approved in advance by the Committee.

(d) Course D shall be followed by candidates currently studying theology in the School of Divinity (however termed) at an accredited institution and having at least two years’ study still to complete; and shall normally consist of two years’ full-time undergraduate study at that School leading to the completion of the degree.

(e) Course E shall be followed by candidates currently studying theology in the School of Divinity (however termed) at an accredited institution and having one year’s study still to complete; and shall consist of one year’s full-time undergraduate study at that School leading to the completion of the degree and one year’s full-time postgraduate study at the same or another accredited institution, being a course approved in advance by the Committee.

(f) (i) For the avoidance of doubt, a student or graduate of theology at an institution not recognised by the Council for this purpose shall undertake Course A above, subject to the recognition of course credits by the academic institution at which Course A is to be taken.

(ii) For the avoidance of doubt, a candidate currently undertaking theological study at a recognised institution may choose either (A) to proceed in terms of (f)(i) above or (B) to complete their current course and then proceed in terms of Course C above.

(2) With the permission in advance of the Committee, a candidate following Course A or B may fulfil the requirements of the first year’s study through part-time study over two years. For the avoidance of doubt, no candidate may undertake part-time study in any other circumstances.

13. The candidate shall satisfy the Committee of competence:

(a) in the following areas of study (during the period of academic training specified in section 12 above):
(i) Interpretation and use of Holy Scripture, both Old and New Testaments, including an introduction to methods of biblical criticism and analysis;
(ii) History of the Church, including the development of the Church of Scotland;
(iii) Principal doctrines of the Christian faith and their application to preaching and pastoral work;
(iv) Principles of Christian Ethics;
(v) Church, Ministry, Worship, Preaching and Sacraments;
(vi) Pastoral Care and Theology.

(b) in knowledge of the Bible and the Law of the Church, by fulfilling such assessment requirements as are set by the Committee;

(c) in all areas of practical knowledge required by the Committee, by active participation throughout their candidature (i) in such residential courses and conferences as are prescribed by the Committee and (ii) in seminars and events provided by the Church college attended by the candidate, such practical training being designed to promote competence in the following areas:
(i) Public worship and preaching;
(ii) Principles of effective communication;
(iii) Speech training;
(iv) Sacramental practice in the Church of Scotland;
(v) Church law and procedure;
(vi) Team working;
(vii) Leadership, support and encouragement of volunteers;
(viii) The practice of ministry and mission, including the minister as celebrant;
(ix) Personal prayer life.

(d) in the practice of ministry, by completing to the satisfaction of the Committee the four placements prescribed in section 17 below;

(e) in the area of child protection (this requirement to have been completed in advance of undertaking the practical training referred to in paragraph (c) above), and

(f) in other areas determined from time to time by the General Assembly.

14. The prior permission of the Committee is required by any candidate who, after starting one course of study, wishes to change course or change University. In the event of such a change of course or University the candidate shall notify the supervising Presbytery.

15-16 Sections 15 and 16 were repealed by Act X 2005.

Placements

17. (1) As part of the Church requirements, four periods of placement work shall be undertaken by the candidate, and must be completed to the satisfaction of the Committee which shall determine the length and content of each placement. The placements shall normally include three during the academic course (of which two shall be part-time and shall last not less than twenty-five weeks and one shall be a full-time summer placement lasting not less than ten weeks) and one full-time probationary placement of fifteen months commencing on the first day of July, August, September or October in the year of graduation; the Committee shall have power in exceptional circumstances to vary this arrangement. The candidate will not normally be permitted to engage in academic study through a university or college or in remunerative employment or office during the course of the fifteen months full-time placement at the conclusion of the academic course.
(2) The supervisor of each placement will be chosen by the Committee and shall undertake training as specified by the Committee. The supervisor shall be responsible for supervising the placement according to the guidelines and standards established by the Committee, and shall produce assessment materials as required.

(3) The assessment materials shall be assessed by the Committee. It shall be competent for the Committee to refuse to sustain a placement.

(4) The Committee shall obtain from the candidate evidence that he or she has satisfactorily completed the prescribed degree course, whereupon the Secretary shall inform the candidate that he or she has permission to commence the final placement.

(5) In respect only of the fifteen month full-time probationary placement referred to in section 17(1) above, the Committee shall have power to prescribe a part-time equivalent to the full-time probationary placement, which part-time equivalent shall have the same overall outcome in terms of hours worked and experience gained.

Supervision during Course

18. Throughout the course of training a candidate must remain under the oversight and pastoral supervision of a Presbytery, initially the Presbytery which nominated him or her, and shall inform the Presbytery of any change of address.

19. (1) Where a candidate’s permanent place of residence changes following nomination so that the oversight and pastoral supervision of the nominating Presbytery is no longer possible, the candidate shall, within two months of changing residence, apply in writing to the nominating Presbytery, to be transferred to the supervision of the Presbytery within whose bounds he or she now resides. On granting such application the Presbytery shall forward an Extract Minute to that effect to the candidate, to the Presbytery within whose bounds the candidate now resides, and to the Committee. This sub-section shall not apply to candidates who move residence to a University centre for purposes of study, who shall be considered under sub-section (3).

(2) Prior to each official meeting with the candidates under its supervision the Presbytery shall initiate consideration of the circumstances of any candidate who has thus changed his or her permanent place of residence but who has not made formal application to transfer. The Presbytery shall thereafter raise with the candidate concerned the question of which Presbytery might most appropriately be responsible for the continuing supervision, and shall have power to effect a transfer to that Presbytery within whose bounds the candidate now has permanent residence. When such a transfer is effected an Extract Minute to that effect shall be sent forthwith to the candidate, to the Presbytery within whose bounds he or she now resides, and to the Committee.

(3) A candidate may, in exceptional circumstances, make application to be transferred to the supervision of the Presbytery within whose bounds is situated the University at which he or she is studying or proposes to study. If the application is granted the same procedure shall be followed as in sub-section (1).

Initial Course Meeting

20. (1) At the outset of the candidate’s course an Initial Course meeting will be held, attended by the candidate, a representative of the Presbytery, a representative of
the Ministries Council and whichever member of the staff of the Ministries Council has been allocated responsibility for the care of the candidate (which staff member may, for this purpose only, act also as the representative of the Council).

(2) At the Initial Course Meeting the candidate and those representing the Presbytery and the Council shall subscribe an *Expectations and Responsibilities* document and agree academic, practical and personal goals for the candidate in his or her first year in training. At the beginning of each placement a *Learning Covenant* will be agreed by the Supervisor and candidate on placement.

(3) Other tasks of the Initial Course meeting, and its structure and procedure, shall be as determined from time to time by the Council.

**Annual Review**

21. (1) An Annual Review meeting shall be held at the end of each academic year in which training has been undertaken, whether or not the candidate has undertaken academic study during that year, and shall be carried out in terms of this section except during the final, fifteen month probationary placement when the provisions of section 22 shall apply. The functions of each meeting shall be to review progress, to affirm or revoke the candidate’s status, and to set goals for the coming year.

(2) In attendance will be the candidate, up to two representatives from each of the Presbytery and the Council, with the appropriate staff member present in an administrative capacity only. The meeting will be convened by one of the representatives of the Presbytery. The candidate may be accompanied by a companion, who may be the supervising minister of the candidate’s most recent placement; the companion shall not be entitled to speak. No-one may act as a representative of the Presbytery or of the Council who has not received appropriate training as shall be determined and provided by the Council. For the avoidance of doubt, the representative(s) appointed by Presbytery shall be appointed with powers to make decisions on behalf of the Presbytery.

(3) At the Annual Review meeting the candidate’s progress shall be reviewed, with reference to (a) the *Expectations and Responsibilities* and *Learning Covenant* documents and (b) the draft report prepared in terms of sub-section (4).

(4) The staff member shall receive written reports from the candidate, the supervising minister (if any) and the College (if academic study has been undertaken during the year); and shall use them, along with such *Indicators for Assessment* document as may be from time to time in use by the Council and the *Expectations and Responsibilities* document, to prepare a draft report for consideration at the Annual Review meeting. The separate reports and the draft report shall be circulated to all those attending the Annual Review meeting, and at the meeting the report shall be revised and agreed, and thereafter distributed by the Council to the Presbytery representatives and the candidate. If the candidate dissents from the report or any part thereof, his or her dissent and the reasons for it shall be recorded in the report, but shall not alter the status of the report for the purposes of this Act.

(5) The final report may contain one of the following conclusions:

(a) that progress is entirely satisfactory; or
(b) that pieces of work require to be completed, or areas of work require to be improved, within a period of time specified in the report; or
that an extension of training requires to be arranged by the Council and a further, final Annual Review conducted (this option may be exercised only once in any academic year); or

(d) that the candidature should be terminated.

(6) The candidate may appeal within twenty-one days against a decision in terms of paragraphs (5)(c) or (5)(d) on one or more of the following grounds: (a) that in the course of the Annual Review there were irregularities in the process, (b) that the final decision was influenced by incorrect material fact, or (c) that the Annual Review acted contrary to the principles of natural justice.

(7) Other tasks of the Annual Review meeting shall be as determined from time to time by the Council.

Final Placement and Sustaining the Course

22. The review process during the final (fifteen month) probationary placement shall be as follows:

(1) After six months, an informal review of the placement shall take place, conducted by a member of the Presbytery, the Committee and the appropriate staff member, and any concerns shall be addressed either informally or by recourse to the procedures set out in section 23.

(2) A Review shall be held in the twelfth month. This notwithstanding, a Review with full powers may be held at any time at the discretion of the Training Task Group. The Review shall follow the procedure described in s.21; and in addition to the conclusion reached in terms of sub-section 21(5), it shall be decided whether the final placement can be sustained and whether the candidate is fit to be ordained in due course: the Presbytery representative shall be appointed in such a way as to have powers to indicate the final approval of the Presbytery at this stage.

(3) Where such approval has been given, the Committee shall satisfy itself that the requirements of sections 13-17 have been fulfilled, including all academic requirements. Provided both requirements are satisfied, the Council shall have the power to issue an Exit Certificate upon completion of the probationary placement, at which point the candidate shall become a Graduate Candidate and shall then remain under the supervision of the Presbytery within whose bounds the final placement was undertaken, pending ordination to a charge or appointment.

(4) The Presbytery shall in each calendar year assess in terms of the criteria set out in section 9 above, the general suitability of each Graduate Candidate and, if satisfied, shall issue a Graduate Candidate’s Certificate confirming continuing approval, and shall advise the Ministries Council by 31 December. Candidates will have a right of appeal in the event of the Presbytery declining to issue a Certificate.

(5) A Presbytery must obtain a current Graduate Candidate’s Certificate for any Graduate Candidate whose call or appointment is to be sustained by that Presbytery after 31 December of the year in which his or her Exit Certificate was awarded.

(6) A Presbytery may issue a Graduate Candidate’s Certificate on up to three occasions only. Thereafter, in order to obtain a Graduate Candidate’s Certificate, the Graduate Candidate must apply for such a Certificate to the Registration of Ministries Committee, following an application procedure equivalent *mutatis mutandis* to that set out in section 27 of the Registration of Ministries Act (Act II
2017) (Application for Category O registration).

(7) Where the Committee has prescribed, under section 17(5) above, a part-time equivalent to the requirement of a fifteen month full-time probationary placement, the Committee may also under this section prescribe equivalent milestones for informal review and for Review, as are appropriate to the arrangements agreed for the part-time probationary placement.

Complaints Procedure
23. Subject always to the provisions of the Discipline Act (Act I 2019), which shall apply in respect of a Disciplinary Complaint (as that term is defined in the Discipline Act) relating to a Candidate, Probationer or Graduate Candidate (as those terms are used in this Act), the provisions of this section shall apply:

(a) where any party to an Expectations and Responsibilities document claims that another party is in breach thereof; or
(b) where the Presbytery or the Council claim that a candidate has failed to fulfil his/her obligations under the agreed Learning Covenant; or
(c) where a material complaint is made to the Council or Presbytery about the candidate’s conduct during training.

Any such claim or complaint shall be intimated by lodging with the Leader of the Training Task Group a written statement providing specific details thereof. The Leader of the Training Task Group shall intimate the statement to all parties to the document or covenant, and the statement shall be retained by the Ministries Council for a period of one year.

24. (1) As soon as is reasonably practicable after receipt of the statement referred to in section 23, one of the Council’s staff shall meet with all relevant parties and seek to resolve such claim or complaint to the satisfaction of all concerned.
(2) In the event that such resolution is not possible, any party to the document or covenant may request a formal meeting of all parties in order to determine what is required to effect resolution.
(3) Such a formal meeting shall be attended by up to two representatives of each of the parties to the document or covenant, and shall be called by the Council and shall be convened by a staff member of the Council, who will notify all parties in writing of the conclusions of the meeting. Such notification shall provide details of the consequences that will ensue in the event of failure by any parties to adhere to the conclusions of the meeting.
(4) The provisions of this section 24 shall not apply where the Committee makes a resolution in terms of section 25(2) below.

25. (1) In the event that no agreement is reached between parties at such a formal meeting as to the facts, or no agreed resolution is reached; or in the event that any party fails to adhere to the agreed conclusions, the Convener of the Committee shall convene a Hearing of all relevant parties.
(2) Furthermore, the Committee shall have power to resolve that it will not be possible to reach a resolution under a section 24 process, in which case the Convener of the Committee shall convene a Hearing of all relevant parties without recourse to the procedure set out in section 24.
(3) The Hearing shall be held as soon as is reasonably practicable. At such a Hearing the candidate shall be present and may be accompanied by a companion who shall not be entitled to speak. The panel for the Hearing, in addition to the Convener, shall comprise two representatives of Presbytery and two representatives of the Council, none of whom shall have had prior personal involvement with the claim or complaint giving rise to the Hearing. The two representatives appointed by Presbytery shall be appointed with powers to make decisions on behalf of Presbytery. A Council staff member shall attend as an adviser.

(4) In the event that the claim giving rise to the Hearing relates to a breach by the Committee, or that the failure is by the Committee, the Hearing shall be convened by the Convener of the Council and not as in sub-section (1) hereof.

(5) At the Hearing all parties thereto shall be entitled to present evidence, to question witnesses and to make a concluding statement. At the conclusion of the Hearing, or as soon as may be practicable thereafter, the panel shall issue its decision and advise all parties. Such a decision shall be final and binding on all parties, subject only to appeal to the Ministries Appeal Panel in terms of Act VI 2007 on the following grounds: (a) an error in Church law; (b) breach of the principles of natural justice or material irregularity of process; (c) decision influenced by incorrect material fact; and (d) the severity of any sanction imposed. The intention to appeal shall be intimated to the Council within 21 days of the panel's decision.

Repeals and Amendments


27. (1) In the following Acts references to Act V 1998 are hereby amended by the substitution of “Act X 2004”, and references to sections 26 or 27 of Act V 1998 are hereby amended by the substitution of section 22 of Act X 2004: Act II 2000 s.1; Act III 2001 s. 2; Act IX 2001 ss. 1 and 6; Act IX 2002 ss. 9(1) and 9(3), 11; Act VIII 2003 s.20(3); Act XV 2003 s.5; Act XIII 2003 ss.1, 4, 6 and 8 (first sentence).

(2) Act IX 2001 is hereby amended as follows: in section 2 the first sentence is amended to read “Act X 2004, sections 2-11, 16 and 18-21 shall apply to the Diaconate.”;

(3) Act IX 2002 is hereby amended as follows: (a) in section 10, by the deletion of “sections 3 to 12 of Act V 1998 (as amended)” and the substitution of “sections 3 to 11 of Act X 2004”; (b) by the amendment of section 12 to read “For the purposes of this Act, the Appeals procedure shall be that set out in section 6(6) of Act X 2004 Anent Selection And Training For The Full-Time Ministry And Eligibility For Ordination.”;

(4) Act XIII 2003 is hereby amended as follows: (a) in section 7 all references to section 6 of Act V 1998 (as amended) shall be deemed to refer to section 6 of this Act; (b) in section 8 by the deletion of the last sentence.
V. CHILD PROTECTION PROCEDURES ACT (ACT V 2005)
Edinburgh, 23rd May 2005, Session IV

The General Assembly enact and ordain as follows:

1. The General Assembly’s Child Protection or Safeguarding Unit (however termed from time to time) shall maintain a list of all instructions, recommendations and legislation relating to child protection practices in the Church and passed by previous General Assemblies. The list, and any subsequent alterations to it, shall be approved by the General Assembly, published in the Unit’s handbook and otherwise disseminated to the whole Church.

2. Courts, agencies, congregations and individuals shall implement all the instructions of the General Assembly contained in the list referred to in section 1 above.

Edinburgh, May 20 2006, Sess. 1

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

Sections 1-4 are amendments, which are dealt with in this updates set in the re-printing of the Acts where they appear.

5. No minister or deacon shall, by virtue of the provisions of sections 1 and 2 above, lose a seat in Presbytery held at the date of the passing of this Act.
IV. PROTECTION AGAINST BULLYING ACT (ACT IV 2007) (AS AMENDED BY ACTS II AND VII 2012 AND III 2014)


The General Assembly hereby enact and ordain as follows:

1. For the purposes of this Act:
   (a) ‘bullying’ shall mean any behaviour (including speech, writing or action, or any combination of them) which in the opinion of the Presbytery would alarm or distress a reasonable person or compel his or her actions or decisions unfairly;
   (b) ‘Respondent’ shall mean a person, committee or court of the Church against whom an accusation of bullying has been made;
   (c) ‘complaint’ shall mean a complaint that bullying has been committed;
   (d) ‘Presbytery’ shall mean the Presbytery in whose bounds is the congregation of which the Respondent is a member or adherent, or in the case of an individual who is not a member or adherent, the Presbytery within whose bounds the Respondent resides;
   (e) ‘The Judicial Proceedings Panel’ shall be the panel referred to in section 1(1)(e) of Act II 2001 (as amended);
   (f) ‘Special Committee of Presbytery’ shall mean a committee of three persons appointed from the Judicial Proceedings Panel in terms of section 9 of whom at least one will be a minister and one an elder.

2. Where an individual against whom an allegation of bullying is made is a minister, licentiate, deacon or graduate candidate, the provisions of Act III 2001 anent Discipline of Ministers, Licentiates, Deacons and Graduate Candidates shall apply and the Presbytery shall proceed in terms of that Act. For the purposes of that process, bullying as defined in this Act is hereby declared to constitute a disciplinary offence in terms of the said Act III.

3. For the avoidance of doubt, where an individual against whom an allegation of bullying is made is an employee of any court or committee of the Church, and that allegation arises within the context of that individual’s employment, the provisions of civil employment law shall apply.

Allegation of Bullying

4. Notice of circumstances indicating that bullying has been committed must be submitted to the Presbytery Clerk within three months of such alleged bullying. Except where section 2 or 3 above applies, the Presbytery Clerk shall within seven days remit the matter to the Presbytery’s Superintendence Committee in terms of this Act, and report that action to the next ordinary meeting of the Presbytery.

5. The Superintendence Committee shall within seven days of its receipt of the complaint appoint a Group of three members of the Presbytery (but not of the Superintendence Committee), or two such members along with one member of a neighbouring Presbytery appointed for this purpose in terms of Act VI 2002 (as amended) section 2.

6. The Group shall meet separately with the complainer (if any), with the person(s) allegedly bullied (if other than the complainer), with the Respondent, and with any other individuals
the Group believes it appropriate to meet. The purpose of these meetings shall be to ascertain a preliminary account of the circumstances.

7. The Group shall normally institute steps to effect mediation or conciliation between or among the parties, and these steps and their outcome shall be reported to Presbytery through the Superintendence Committee. The report to Presbytery need not contain the names of any of the parties in the event that the steps have, in the opinion of the Superintendence Committee, resolved the complaint without the need for further action on the part of the Presbytery.

8. The Group may decide not to attempt to institute the steps referred to in section 7, but shall narrate to the Presbytery, through the Superintendence Committee their reasons for such a decision, and the Presbytery may instruct the Committee to make a fresh attempt to resolve the matter through mediation or conciliation.

Initial Consideration

9. In the event that the complaint has not been resolved through the steps referred to in section 7, the Presbytery shall appoint from the Judicial Proceedings Panel a Special Committee of Presbytery. For the avoidance of doubt, a Presbytery shall not select anyone to serve on a Special Committee who is a member of their own Presbytery.

10. (1) In considering whether to carry out an investigation the Special Committee of Presbytery shall have regard to all the relevant facts, and in particular

(a) the bona fides of any person making an allegation that bullying may have been committed;

(b) any representation made by the person who is the subject of the allegation; and

(c) the gravity of the alleged offence.

For the avoidance of doubt the standard of proof throughout proceedings shall be the balance of probabilities.

(2) Before deciding whether to carry out investigation the Special Committee of Presbytery shall intimate in writing to the Respondent the nature of the offence alleged and the nature of the evidence purported to exist in support of the allegation and shall offer him or her the opportunity to make any answer thereto, provided that he or she shall not be obliged to answer.

(3) If the Special Committee decides that it is not appropriate to carry out an investigation in respect of all or any of the allegations made, the Special Committee shall report that decision to the Presbytery. At the same time the Special Committee shall also advise the person or persons (if any) who made the allegation or allegations of its decision and the reasons for it. At such time the Special Committee of Presbytery may also issue guidance to the Respondent regarding his or her conduct. Such guidance will be kept in a Record Apart.

(4) (a) For the avoidance of doubt a decision of the Special Committee that it is not appropriate to carry out an investigation into all or any of the allegations made shall not be subject to appeal or dissent and complaint or any other form of review other than a procedural review carried out by three members of the Judicial Proceedings Panel appointed by the Legal Questions Committee.
(b) Said review must be requested by the person or persons who made the allegation or allegations within fourteen days of the date upon which the Special Committee of Presbytery reported its decision to such persons.

(c) Such request shall be made by sending or delivering a written request to the Presbytery Clerk, and such request shall also intimate, in brief specific numbered propositions, the grounds (as specified at sub-paragraph (e) below) which the person or persons making the allegation or allegations consider justify such a review taking place.

(d) In intimating its decision to the person or person who made the allegation or allegations, the Special Committee of Presbytery shall advise of the right to a procedural review.

(e) A procedural review can be sought only on one or both of the following grounds: (a) that there was an irregularity or breach of the principles of natural justice in the process followed by the Special Committee which materially influenced its decision; and, (b) that its decision was materially influenced by some incorrect fact.

(f) In the event that the persons so appointed to carry out such a procedural review determine that one or both of the foregoing grounds have been established, they shall order a new investigation to be carried out by a different Special Committee of Presbytery selected from the Judicial Proceedings Panel.

(g) The decision of the procedural review shall be final and not subject to appeal, dissent and complaint or any other form of review.

Investigation of complaint

11. (1) If the Special Committee of Presbytery decides to initiate investigatory proceedings it shall:

(a) give notice to the Respondent of the decision to investigate the case and of the allegation or allegations which are to be investigated;

(b) give notice to the Presbytery of that decision and of the allegation or allegations which are to be investigated; and

(c) give notice to the Legal Questions Committee, which shall appoint a legally qualified assessor to advise the Special Committee of Presbytery on matters of law and procedure.

(2) On receipt of the notice referred to in section 11(1)(b), the Presbytery shall make such arrangements as appear to it appropriate for the provision of pastoral support for the Respondent and his or her family, for the person or persons who made the allegation and for any witnesses within the bounds of the Presbytery.

(3) At the request of the Special Committee, or on its own initiative, the Presbytery may impose upon the Respondent an administrative suspension, being an instruction by the Presbytery to the individual to abstain from the exercise of all the functions of his or her office until proceedings under this Act are finally disposed of; and it shall not constitute a form of censure.
12. The Special Committee of Presbytery shall carry out such investigations as it deems necessary to determine whether bullying may have been committed, and shall keep a Record Apart of the investigatory proceedings.

13. Before reaching any conclusion, the Special Committee of Presbytery shall make known to the Respondent the substance of the complaint made against him or her and the nature of the evidence existing in support of the allegation and shall offer him or her the opportunity to make any answer thereto; provided that he or she shall not be obliged to answer.

14. Upon consideration of the allegations and evidence submitted and of any answers given, the Special Committee shall be entitled to resolve that no further investigation shall be carried out if there is no case to answer. In that event, it shall report to the Presbytery which shall recall any administrative suspension imposed in terms of section 11(3).

15. (a) For the avoidance of doubt a decision of the Special Committee that no further investigation shall be carried out shall not be subject to appeal or dissent and complaint or any other form of review other than a procedural review carried out by three members of the Judicial Proceedings Panel appointed by the Legal Questions Committee.

(b) Said review must be requested by the person or persons who made the allegation or allegations within fourteen days of the date upon which the Special Committee of Presbytery reported its decision to such persons.

(c) Such request shall be made by sending or delivering a written request to the Presbytery Clerk, and such request shall also intimate, in brief specific numbered propositions, the grounds (as specified at sub-paragraph (e) below) which the person or persons making the allegation or allegations consider justify such a review taking place.

(d) In intimating its decision to the person or person who made the allegation or allegations, the Special Committee of Presbytery shall advise of the right to a procedural review.

(e) A procedural review can be sought only on one or both of the following grounds: (a) that there was an irregularity or breach of the principles of natural justice in the process followed by the Special Committee which materially influenced its decision; and, (b) that its decision was materially influenced by some incorrect fact.

(f) In the event that the persons so appointed to carry out such a procedural review determine that one or both of the foregoing grounds have been established, they shall order a new investigation to be carried out by a different Special Committee of Presbytery selected from the Judicial Proceedings Panel.

(g) The decision of the procedural review shall be final and not subject to appeal, dissent and complaint or any other form of review.

16. In the event that the Special Committee of Presbytery decides to proceed further in terms of this Act, it shall bring a report to the Presbytery in numbered paragraphs stating its findings in fact, a recommendation as to disposal of the case, and a determination of
whether there has been any element of harassment or victimisation. The Presbytery shall hear and dispose of the Report.

Disposal of Complaint
17. The Presbytery shall dispose of the case as seems appropriate to it. The disposals available to the Presbytery shall include the following, and may consist of a combination of elements:
   (a) instruction to any party regarding future conduct; disobedience of such instruction constituting the disciplinary offence of contumacy;
   (b) reprimand, which shall be an expression of disapproval or particular behaviour with counsel regarding future conduct;
   (c) removal from a particular office held, including removal from membership of a Kirk Session;
   (d) deprivation of status as an elder, subject to future restoration by the Presbytery.

Miscellaneous
18. A complaint may be made in terms of this Act against a Presbytery or committee or Council of the General Assembly, and shall take the form of a Petition to the Commission of Assembly.

19. If either the Special Committee of Presbytery or the Respondent is dissatisfied with a decision made by a Presbytery in terms of section 17 of this Act, they may appeal to the Judicial Commission in terms of the Appeals Act (Act I 2014), on the basis of one or more of the grounds of appeal set out in section 2(3) of that Act. Such appeal must be intimated within fourteen days of the decision.

20. No legal expenses in connection with proceedings under this Act shall be met from the funds of the Church.

21. This Act shall come into effect on 1 September 2007.


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

1. The General Assembly hereby appoints a standing committee to be known as the 'Ministries Appeals Panel' to hear and finally dispose of such appeals as are delegated to it in terms of this Act. The decisions of the Ministries Appeals Panel shall be final, and there shall be no right of appeal against them. For the avoidance of doubt, save as specified in this Act, no decision taken solely by any Kirk Session or Presbytery of the Church may be appealed to the Ministries Appeal Panel.

2. (1) The Ministries Appeals Panel shall consist of a Convener, Vice-Convener and three members all appointed by the General Assembly on the nomination of the Nomination Committee and in terms of the Standing Orders of the General Assembly. At least one member shall be legally qualified, at least one shall be a minister and at least one shall be an elder. The quorum of the Ministries Appeals Panel shall be three including either the Convener or Vice-Convener, and including at least one elder and at least one minister (each of whom may be the Convener or Vice-Convener).

   (2) The Clerks of the General Assembly shall act as Clerks to the Ministries Appeals Panel, though not members thereof, but the duties may be carried out by one of them. If neither of them is present, the Ministries Appeals Panel shall appoint a substitute, whether or not a member thereof, to act as Clerk of the Panel during the sittings thereof, and the oath de fidei shall be administered to him or her and recorded.

3. Procedure shall be in accordance with the Standing Orders of the General Assembly so far as applicable and consistent with this Act. The Ministries Appeals Panel shall act in accordance with the Constitution of the Church and the Acts of the General Assembly and nothing in this Act shall be construed as conferring power to contravene or amend existing legislation, or to legislate. The Ministries Appeals Panel shall be accountable to the General Assembly which may revoke any action in excess of the powers conferred by this Act.

4. The Ministries Council shall report to the General Assembly all decisions made by the Ministries Appeals Panel in terms of this Act.

5. The Ministries Appeals Panel shall hear appeals by individuals against decisions of the Ministries Council or any of its committees, relating to questions of recruitment, selection, education and training for the full-time Ministry of Word and Sacrament, the Auxiliary Ministry, the Ordained Local Ministry, the Diaconate and the Readership, in accordance with the relevant Acts and Regulations of the General Assembly. The Ministries Appeal Panel shall also hear appeals by ministers and deacons taken against decisions of the Registration of Ministries Committee in terms of the Registration of Ministries Act (Act II 2017), in accordance with section 33 of that Act. In addition the Ministries Appeal Panel shall hear appeals arising under the Continuing Parish Ministry
Beyond the Age of 75 Regulations (Regs II 2018).

6. Act VI 1997 anent the Commission of Assembly (as amended) is hereby further amended by the addition to sub-paragraph 5(d)(i) of the words ", and with the further exception of those delegated to the Ministries Appeals Panel in terms of Act VI 2007”.

7. Act XVII 1992 anent the Readership (as amended) is hereby further amended by the addition of a new section 10 to read: “Appeals against decisions of the Ministries Council in terms of sections 1, 2 and 9 of this Act shall be subject to the provisions of Act VI 2007 anent the Ministries Appeals Panel”.

8. Act IX 2001 anent Selection, Training and Admission of Deacons (as amended) is hereby further amended by the addition to the end of section 2 of the sentence: “For the avoidance of doubt appeals against decisions taken in terms of this section shall be subject to the provisions of Act VI 2007 anent the Ministries Appeals Panel”.

Note: Act I 2009 section 9 provides that this Act should be interpreted in conformity with that one (effectively, Act IX 2002 as thereby amended).
The General Assembly enact and ordain as follows:-

Definitions
1. (a) Ecclesiastical buildings: All properties pertaining to a congregation whether or not in use for the purposes of the congregation and in particular but without prejudice to the foregoing generality all Churches, Church Halls, Manses, houses for assistant or associate ministers, Church Officers’ houses, retirement houses, ancillary buildings or outbuildings and properties which are let.

(b) Financial Board: The Kirk Session, Congregational Board, Deacons Court, Committee of Management or other congregational authority responsible for finance and for the maintenance of the ecclesiastical buildings pertaining to the congregation.


(d) Professional Reporter: An Associate or Fellow of the Royal Incorporation of Architects in Scotland or of the Royal Institution of Chartered Surveyors and who has satisfied the Presbytery that he or she carries appropriate Professional Indemnity Insurance of at least £500,000 or such other professional person nominated by the Presbytery and approved by the General Trustees.

Duties of Congregations
2. The Financial Board shall in each congregation set up a Fabric Committee to take care of the ecclesiastical buildings of the congregation. The Fabric Committee shall be empowered to co-opt persons with appropriate skills to enable it to carry out its work.

3. (a) The Fabric Committee shall complete and maintain a Property Register and a Manse Condition Schedule.

(b) The Property Register shall be in the form approved and issued by the Church of Scotland General Trustees (“the General Trustees”) and shall contain the following sections in respect of the ecclesiastical buildings except the Manse of the charge:

(1) A list of the ecclesiastical buildings of the congregation and the title upon which each is held;

(2) The level of insurance cover in respect of each ecclesiastical building;

(3) An inventory of furnishings and equipment wherever located;

(4) Details of all repairs and improvements undertaken to the ecclesiastical buildings other than those identified by the Professional or Interim Reports;

(5) A summary of the urgent and essential items of repair identified by the Professional or Interim Reports.

(c) The Manse Condition Schedule shall be in the form approved and issued by the General Trustees and the Ministries Council and shall contain the following information in respect of the Manse of the charge:

(1) Basic information as to address, building type, Listing, insurance cover and service contracts;
(2) A description of the internal condition by reference to each room, its current condition, when it was last decorated and/or up-graded and at what cost;

(3) A description of the external condition including the garden; and clarification of the relative responsibilities of the Financial Board and Minister with regard to garden upkeep;

(4) Details of items such as floorcoverings, curtains, and white goods which are provided and maintained by the Financial Board.

4. The Fabric Committee shall inspect all ecclesiastical buildings including the Manse by the end of May each year. All matters which are found to require attention at the annual inspection, and at any other time, shall be recorded in the Property Register or the Manse Condition Schedule along with a note of the action taken thereon.

5. (a) The Property Register and the Manse Condition Schedule shall be submitted annually to the Financial Board when it considers its budget for the following year so that reasonable provision may be made for the repairs and renovations required. At the same time, the Financial Board shall consider the levels of insurance cover in respect of all ecclesiastical buildings including the Manse to ensure that they are realistic and to make allowance for increased premiums in the following year.

(b) At least once in each ten year period the Financial Board shall instruct a valuation for insurance purposes of all the ecclesiastical buildings and heritable fittings and fixtures. A Financial Board which has not obtained a valuation for insurance purposes of any ecclesiastical building and heritable fittings and fixtures since 1 July 1997 shall instruct such a valuation no later than 1 July 2009. The Fabric Committee shall implement the recommendations as to the appropriate level of insurance cover.

Nothing in this section shall preclude Presbyteries from instructing valuations for insurance purposes on the ecclesiastical buildings of congregations within their bounds.

(c) The Property Register, incorporating the revised insurance values, shall be attested and thereafter submitted to the Presbytery when called for.

(d) The Manse Condition Schedule need not be submitted annually to Presbytery but shall be submitted:

(1) to quinquennial visitors appointed by the Presbytery;
(2) to the Presbytery upon a vacancy in the charge;
(3) when permission in terms of the Work at Ecclesiastical Buildings Regulations 1998 (as amended) in respect of the Manse is being sought;
(4) at any other time when requested by the Presbytery or the General Trustees.

6. Where a Manse serves as the Manse of a linked charge, the Fabric Committee shall give a copy of the Manse Condition Schedule to the Fabric Committee of the other congregation or congregations in the linking.
Duties of Presbyteries

7. Each Presbytery shall set up a Fabric Committee (the “Presbytery Committee”) to which it shall appoint persons with technical knowledge and experience and appropriate skills and shall empower it to co-opt persons with such knowledge, experience and skills or to obtain such assistance as it may deem necessary.

8. The Presbytery Committee shall consider all Property Registers of congregations within the bounds on an annual basis and shall report thereon to the Presbytery. The Presbytery shall have power to instruct a congregation to undertake such repairs as it may deem necessary and to implement the recommendations of insurance valuations.

9. (a) At least once in the five year period beginning on 1 July 2007 and thereafter at intervals of not more than five years from the date of the previous inspection and report, the Presbytery Committee shall instruct an inspection and report on the ecclesiastical buildings of each congregation within the bounds. The said reports shall take one of two forms:

   (1) A Principal Report which shall be carried out by a Professional Reporter at least once in each ten year period beginning on 1 July 2007.

   Instructions for Principal Reports shall be given jointly on behalf of the following bodies which are directly interested in the maintenance, or the supervision of the maintenance of all ecclesiastical buildings: (1) the Presbytery of the bounds, (2) the Financial Board of the congregation concerned and (3) the trustees in whom the ecclesiastical buildings are vested; and the Presbytery is hereby authorised to act on behalf of such bodies.

   (2) In Presbyteries where a Principal Report is carried out once in each ten year period, the intervening Report shall be carried out by a person approved by the Presbytery and shall be known as an Interim Report.

(b) Reasonable notice of intended inspections shall be given to the Clerk of the Financial Board and to the Minister of the charge and it shall be their duty to afford all reasonable facilities for the carrying out of inspections.

(c) All Principal and Interim Reports shall be in such form and shall contain such information as may be decided by the General Trustees and shall identify as “Urgent” all works required for the safety of the public or persons using the buildings; as “Essential” all works required to keep the buildings wind, water-tight and fit for use; and as “Desirable” all other works including works of modernisation and improvement.

(d) Professional and Interim reporters shall also have regard to the terms of the previous Report and shall comment on whether the Financial Board has dealt with the Urgent, Essential and Desirable works identified therein.

(e) On receipt of either a Principal or Interim Report, the Presbytery Committee shall transmit a copy to the Financial Board of the congregation and to the Church of Scotland General Trustees for their records. The Financial Board shall engross a summary of the report in the Property Register and, with regard to the Manse, in the Manse Condition Schedule to be taken into consideration at its annual budget meeting.

(f) The cost of all Principal Reports shall be met by the Presbytery.
10. The Presbytery Committee shall consider Principal and Interim Reports with particular reference to the items identified as Urgent and Essential in the immediately preceding Report. It shall consult with the Fabric Committee of the congregation concerned before presenting the Report to the Presbytery with instructions as to the timescales, prior to the next Report, within which the said Financial Board shall complete the works classified as “Urgent” and those classified as “Essential”. The Presbytery may instruct an energy survey to be carried out by the General Trustees’ Heating Consultant. The Financial Board shall advise the Presbytery when these works have been completed and, if required by the Presbytery, when an energy survey has been undertaken. The Presbytery Clerk shall inform the Presbytery if such advice from the Financial Board is not to hand within the stated timescale and the Presbytery shall take such action as it deems appropriate.

11. Each Presbytery shall annually prepare and transmit to the General Trustees not later than 31 December, and containing such information as may be prescribed by the General Trustees, a report on its diligence in carrying out the provisions of this Act within its bounds. The General Trustees shall report thereon to the General Assembly.

12. The Act will not apply to (a) congregations and Presbyteries outwith the United Kingdom but these Presbyteries shall take such steps as they deem wise in their own circumstances for the inspection of all ecclesiastical buildings within their bounds and (b) congregations of Church Extension Charges or New Charges until they attain full status.


14. Act IX 1979 (as amended) is hereby repealed.

Edinburgh, 20 May 2010, Session I

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

1. For the purposes of this Act:
   (a) ‘disciplinary offence’ shall mean:
       (i) conduct which is declared censurable by the Word of God, Act of the General Assembly or established custom of the Church or
       (ii) a breach of a lawful order of any court of the Church;
   (b) ‘Respondent’ shall for the purposes of this Act only mean an elder (whether or not a member of a Kirk Session), reader or other office bearer against whom a complaint has been made;
   (c) ‘office-bearer’ shall for the purposes of this Act only mean an individual who serves on a Congregational Board, Deacons’ Court or Board of Management, or any other body deemed by the Presbytery to form part of the governance arrangements of the congregation, or on any Committee of any of these bodies or of a Kirk Session or Presbytery, and shall for the avoidance of doubt include all Clerks and Treasurers whether or not such individuals serve as voting members of any such governing body;
   (d) ‘complaint’ shall for the purposes of this Act only mean a complaint that a disciplinary offence has been committed;
   (e) ‘Presbytery’ shall mean the Presbytery in whose bounds is the congregation of which the Respondent is a member;
   (f) ‘The Judicial Proceedings Panel’ shall mean the Panel referred to in section 1(1)(e) of Act III, 2001 (as amended);
   (g) ‘Special Committee of Presbytery’ shall mean a Committee of three persons appointed from the Judicial Proceedings Panel in terms of section 8 of whom at least one will be a minister and one an elder.

2. For the avoidance of doubt it is declared that any proceedings under this Act are part of the exclusive jurisdiction of the Church and in accordance with the Articles Declaratory of the Constitution of the Church of Scotland in Matters Spiritual, as hereby interpreted by the Church.

3. For the avoidance of doubt, where an individual against whom an allegation of a disciplinary offence is made is a minister, licentiate, deacon or graduate candidate, the provisions of Act III 2001 anent Discipline of Ministers, Licentiates, Deacons and Graduate Candidates shall apply and the Presbytery shall proceed in terms of that Act.

4. For the avoidance of doubt, where an individual against whom an allegation made in terms of this Act is an employee of any Court or Committee of the Church, and that allegation arises within the context of that individual’s employment, the provisions of civil employment law shall apply.

5. Where an allegation is made to which the provisions of Act IV 2007 anent Bullying apply, this Act may not be invoked.
6. When in the course of proceedings under Act I 2011 (anent Local Church Review) or Act I 1988 (anent Congregations in an Unsatisfactory State) the Presbytery receives notice of circumstances indicating that a disciplinary offence may have been committed by an elder, reader or other office-bearer, it may either proceed simultaneously in terms of this Act or resolve to initiate proceedings under this Act following the completion of the existing proceedings.

7. A Presbytery shall initiate investigatory proceedings as soon as it comes to the notice of the Presbytery that (a) the name of a person over whom it has jurisdiction has been placed on the Sex Offenders’ Register or included in the Children’s List and/or the Adults’ List kept under section 1(1) of the Protection of Vulnerable Groups (Scotland) Act 2007 (or any subsequent modification, replacement or re-enactment thereof), and/or (b) a person over whom it has jurisdiction has failed to advise the Church’s Safeguarding Service of (i) any act, default or omission, or (ii) any circumstances arising, bearing upon that person’s suitability to undertake Regulated Work as defined in the Protection of Vulnerable Groups (Scotland) Act 2007 (or any subsequent modification, replacement or re-enactment thereof).

Allegation of Disciplinary Offence

8. On receiving notice of circumstances indicating that a disciplinary offence may have been committed, the Superintendence Committee of the Presbytery shall within seven days (or within a longer period for which the Presbytery can reasonably show necessity) appoint from the Judicial Proceedings Panel a Special Committee of Presbytery in terms of section 1(g). In so appointing, the Superintendence Committee shall not select anyone to serve on a Special Committee who is a member of their own Presbytery. For the avoidance of doubt it is expressly declared that in so appointing the Superintendence Committee shall have all the powers of Presbytery.

9. At the request of the Special Committee of Presbytery, or on its own initiative, the Presbytery may at any time impose upon the Respondent an administrative suspension, being an instruction by the Presbytery to the individual to abstain from the exercise of all the functions of his or her office until proceedings under this Act are finally disposed of; and it shall not constitute a form of censure.

10. If at any stage of proceedings under this Act the Respondent admits to any or all of the allegation(s), and the Special Committee of Presbytery is willing to accept such an admission and abandon its consideration of any part of the allegation not admitted, the Special Committee shall, with the consent of the Respondent, produce a Report for Presbytery recommending summary disposal of the case in terms of section 24.
   (1) In the event that the Presbytery approves the decision of the Special Committee, the Presbytery shall proceed to dispose of the case in terms of section 24.
   (2) In the event that the Presbytery does not approve the decision of the Special Committee, it shall give such further instruction to the Special Committee as is necessary.

11. The Special Committee of Presbytery may sist proceedings pending the outcome of any civil or criminal proceedings which relate to the allegation or part of the allegation. Where the allegation made to the Presbytery is the same as a charge brought against the
Respondent in criminal law, a criminal conviction shall be deemed by the Presbytery to satisfy the standard of proof, for the purposes of this Act.

12. The Special Committee of Presbytery shall meet separately with the complainer (if any), with the Respondent, and with any other individuals the Special Committee believes it appropriate to meet. The purpose of these meetings shall be to ascertain a preliminary account of the circumstances.

13. The Special Committee of Presbytery shall, if it believes it is appropriate to do so, institute steps to effect mediation or conciliation between or among the parties, and these steps and their outcome shall be reported to Presbytery through the Superintendence Committee. The report to Presbytery need not contain the names of any of the parties in the event that the steps have, in the opinion of the Superintendence Committee, resolved the complaint without the need for further action on the part of the Presbytery.

**Initial Consideration**

14. In the event that the complaint has not been resolved through the steps referred to in section 13, the Special Committee of Presbytery shall consider whether to carry out an investigation.

15. The Special Committee of Presbytery shall intimate in writing to the Respondent the nature of the offence alleged and the nature of the evidence purported to exist in support of the allegation and shall offer him or her the opportunity to make any answer thereto, provided that he or she shall not be obliged to answer.

16. In considering whether to carry out an investigation the Special Committee of Presbytery shall have regard to all the relevant facts, and in particular
   (a) the bona fides of any person making an allegation that a disciplinary offence may have been committed;
   (b) any representation by the person who is the subject of the allegation;
   (c) the preliminary account ascertained in terms of section 12; and
   (d) the gravity of the alleged offence.
   For the avoidance of doubt the standard of proof throughout proceedings shall be the balance of probabilities.

17. (1) If the Special Committee of Presbytery decides that it is not appropriate to carry out an investigation in respect of all or any of the allegations made, the Special Committee of Presbytery shall report that decision to the Presbytery for its approval. At the same time the Special Committee shall also advise the person or persons (if any) who made the allegation or allegations of its decision and the reasons for it. The Special Committee of Presbytery may also issue guidance to the Respondent regarding his or her conduct. Such guidance will be kept in a Record Apart.

   (2) (a) In the event that the Presbytery approves the decision of the Special Committee, it shall recall any administrative suspension imposed in terms of section 9. The Presbytery shall intimate its approval of the Special Committee’s decision to the person or persons (if any) who made the allegation or allegations.
For the avoidance of doubt an approved decision that it is not appropriate to carry out an investigation into all or any of the allegations made shall not be subject to appeal or dissent and complaint or any other form of review other than a procedural review carried out by three members of the Judicial Proceedings Panel appointed by the Legal Questions Committee.

Said review must be requested by the person or persons who made the allegation or allegations within fourteen days of the date upon which the Presbytery intimated its approval of the decision of the Special Committee of Presbytery.

Such request shall be made by sending or delivering a written request to the Presbytery Clerk, and such request shall also intimate, in brief specific numbered propositions, the grounds (as specified at sub-paragraph (f) below) which the person or persons making the allegation or allegations consider justify such a review taking place.

In intimating its approval of the Special Committee’s decision to the person or person who made the allegation or allegations, the Presbytery shall advise of the right to a procedural review.

A procedural review can be sought only on one or both of the following grounds: (a) that there was an irregularity or breach of the principles of natural justice in the process followed by the Special Committee which materially influenced its decision; and, (b) that its decision was materially influenced by some incorrect fact.

In the event that the persons so appointed to carry out such a procedural review determine that one or both of the foregoing grounds have been established, they shall order a new investigation to be carried out by a different Special Committee of Presbytery selected from the Judicial Proceedings Panel.

The decision of the procedural review shall be final and not subject to appeal, dissent and complaint or any other form of review.

In the event that the Presbytery does not approve the decision of the Special Committee, it shall give such further instruction to the Special Committee as is necessary.

Investigation of Complaint

18. If the Special Committee of Presbytery decides to initiate investigatory proceedings it shall:
   (a) give notice to the Respondent of the decision to investigate the case and of the allegation or allegations which are to be investigated;
   (b) give notice to the Presbytery of that decision and of the allegation or allegations which are to be investigated; and
(c) give notice to the Legal Questions Committee, which shall appoint a legally qualified assessor to advise the Special Committee of Presbytery on matters of law and procedure, if it has not done so by invitation at an earlier stage.

19. On receipt of the notice referred to in section 18(b), the Presbytery shall make such arrangements as appear to it appropriate for the provision of pastoral support for the Respondent and his or her family, for the person or persons who made the allegation and for any witnesses within the bounds of the Presbytery.

20. The Special Committee of Presbytery shall carry out such investigations as it deems necessary to determine whether a disciplinary offence may have been committed, and shall keep a Record Apart of the investigatory proceedings.

21. Before reaching any conclusion, the Special Committee of Presbytery shall make known to the Respondent the substance of the complaint made against him or her and the nature of the evidence existing in support of the allegation and shall offer him or her the opportunity to make any answer thereto; provided that he or she shall not be obliged to answer.

22. (1) Upon consideration of the allegations and evidence submitted and of any answers given, the Special Committee of Presbytery shall be entitled to resolve that no further investigation shall be carried out if there is no case to answer. In that event, it shall report to the Presbytery for approval. At the same time the Special Committee shall also advise the person or persons (if any) who made the allegation or allegations of its decision and the reasons for it. The Special Committee of Presbytery may also issue guidance to the Respondent regarding his or her conduct. Such guidance will be kept in a Record Apart.

(2) (a) In the event that the Presbytery approves the decision of the Special Committee, it shall recall any administrative suspension imposed in terms of section 9. The Presbytery shall intimate its approval of the Special Committee's decision to the person or persons (if any) who made the allegation or allegations.

(b) For the avoidance of doubt an approved decision that no further investigation shall be carried out shall not be subject to appeal or dissent and complaint or any other form of review other than a procedural review carried out by three members of the Judicial Proceedings Panel appointed by the Legal Questions Committee.

(c) Said review must be requested by the person or persons who made the allegation or allegations within fourteen days of the date upon which the Presbytery intimated its approval of the decision of the Special Committee of Presbytery.

(d) Such request shall be made by sending or delivering a written request to the Presbytery Clerk, and such request shall also intimate, in brief specific numbered propositions, the grounds (as specified at sub-paragraph (f)
below) which the person or persons making the allegation or allegations consider justify such a review taking place.

(e) In intimating its approval of the Special Committee’s decision to the person or person who made the allegation or allegations, the Presbytery shall advise of the right to a procedural review.

(f) A procedural review can be sought only on one or both of the following grounds: (a) that there was an irregularity or breach of the principles of natural justice in the process followed by the Special Committee which materially influenced its decision; and, (b) that its decision was materially influenced by some incorrect fact.

(g) In the event that the persons so appointed to carry out such a procedural review determine that one or both of the foregoing grounds have been established, they shall order a new investigation to be carried out by a different Special Committee of Presbytery selected from the Judicial Proceedings Panel.

(h) The decision of the procedural review shall be final and not subject to appeal, dissent and complaint or any other form of review.

(3) In the event that the Presbytery does not approve the decision of the Special Committee, it shall give such further instruction to the Special Committee as is necessary.

23. In the event that the Special Committee of Presbytery decides to proceed further in terms of this Act, it shall bring a report to the Presbytery in numbered paragraphs stating its findings in fact and a recommendation as to disposal of the case. The Presbytery shall hear and dispose of the Report.

Disposal of Complaint

24. The Presbytery shall dispose of the case as seems appropriate to it. The disposals available to the Presbytery shall include the following, and may consist of a combination of elements:

(a) Instruction to any party regarding future conduct; disobedience of such instruction constituting the disciplinary offence of contumacy;
(b) reprimand, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct;
(c) removal from a particular office held, including removal from membership of a Kirk Session;
(d) deprivation of status as an elder, subject to future restoration by the Presbytery, or of status as a Reader, subject to future restoration by the Presbytery in consultation with the Ministries Council.

Miscellaneous

25. If either the Special Committee of Presbytery or the Respondent is dissatisfied with a decision made by a Presbytery in terms of section 20 of this Act, they may appeal to the Judicial Commission in terms of the Appeals Act (Act I 2014), on the basis of one or
more of the grounds of appeal set out in section 2(3) of that Act. Such appeal must be intimated within fourteen days of the decision.

26. No legal expenses in connection with proceedings under this Act shall be met from the funds of the Church. At the request of the Respondent the Presbytery shall appoint a person familiar with the practice of church law to act as an adviser to him or her. If not accompanied by such an adviser, at all stages of the proceedings under this Act the Respondent shall be entitled to be accompanied by one individual chosen by the Respondent, who shall not have the right to speak.

Consequential Amendments

27. Act XI 1707 (the 'Form of Process') and Act XIX 1889 (Act on Forms and Procedure in Trial by Libel and in Causes Generally) shall cease to apply in relation to proceedings under this Act.

28. Act III 2000 (Consolidating Act anent Church Courts) (as amended) is hereby further amended by the addition in sub-section 37(1), after ‘execution,’ of the words ‘and, subject to the provisions of Act I 2010,’

29. Act VI 2002 anent Co-operation by Presbyteries (as amended) is hereby further amended by the removal in section 2 of the word ‘or’ and the addition, to the end of section 2, of the words “and Act I 2010”.


V. THIRD ARTICLE DECLARATORY ACT (ACT V 2010)

Edinburgh, 21 May 2010, Session 2

The General Assembly declare as follows:

(1) The Church of Scotland reaffirms the principles enshrined in the third Article Declaratory and declares anew its commitment to be a national church with a distinctive evangelical and pastoral concern for the people and nation of Scotland;

(2) The Church of Scotland asserts that, while this commitment is recognised by Act of Parliament, namely the Church of Scotland Act 1921 and Articles Declaratory appended thereto, its true origin and entire basis lie not in civil law but in the Church’s own calling by Jesus Christ, its King and Head;

(3) The Church of Scotland remains committed to the ecumenical vision set out in the seventh Article Declaratory and, in pursuit of that vision, stands eager to share with other churches in Christian mission and service to the people of Scotland;

(4) The Church of Scotland understands the words “a national church representative of the Christian faith of the Scottish people” as a recognition of both the Church’s distinctive place in Scottish history and culture and its continuing responsibility to engage the people of Scotland wherever they might be with the Gospel of Jesus Christ.

(5) The Church of Scotland understands the phrase “bring the ordinances of religion to the people in every parish of Scotland through a territorial ministry” to mean a commitment to maintain worshipping, witnessing and serving Christian congregations throughout Scotland.
The General Assembly declare as follows:-

The Office of Deacon

1. A Deacon is a man or woman who, under a Call from God, has pledged himself or herself to the service of Jesus Christ and His Church and has been selected, trained and ordained to exercise ministry in terms of this Act (or any succeeding legislation) and according to the doctrine and discipline of the Church of Scotland. The Office of Deacon is recognised by the Church to be a distinctive, lifelong status within the ministry of the Church and to be agreeable to the Word of God. For the avoidance of doubt, this Act does not apply to members of Deacons' Courts.

A. SELECTION, TRAINING AND ORDINATION OF DEACONS

Definitions

2. Section 1 of Act X 2004 shall apply to the Diaconate subject to the deletion of subsections (h), (j) and (k), all for the purposes of that application only.

Selection and Training of Deacons

3. Sections 2-11, 18-21 and 23-25 of Act X 2004 shall apply to the Diaconate. For the purposes of this Act:

(i) references to 'the Ministry of the Church of Scotland' or 'the full-time ministry' shall be understood as referring to the diaconal ministry of the Church of Scotland

(ii) references to Universities shall be deemed to include any institution of higher education approved by the Ministries Council for the training of Deacons.

For the avoidance of doubt, appeals against decisions taken in terms of this section shall be subject to the provisions of Act VI 2007 anent the Ministries Appeals Panel.

Academic and Practical Training of Deacons

4. (a) Each Candidate shall have a Course prescribed by the Ministries Council immediately following acceptance as a Prospective Candidate.

(b) The Candidate shall satisfy the Ministries Council of competence:

(i) in all areas of study prescribed from time to time by the Ministries Council, which shall always include the interpretation and use of Holy Scripture (both Old and New Testaments), the development and growth of the Church (with special reference to the Church of Scotland), the principal doctrines of the Christian faith (their interpretation, their defence and their application), the constitution and laws of the Church of Scotland, the history and contemporary understanding of the Diaconate in the Church of Scotland and ecumenically, practical theology (including mission, evangelism, pastoral care and counselling, the worship of the Church (especially the Church of Scotland), and the contemporary understanding of Church and society, and voice and communication skills;

(ii) in further optional courses approved from time to time by the Ministries Council and selected by the Candidate;
Placements during Training
5. (a) As part of the Church requirements, three periods of placement work shall be undertaken by the Candidate, and must be completed to the satisfaction of the Ministries Council which shall determine the length and content of each placement. The placements shall normally include two during the academic course (of which one shall be part-time and shall last not less than twenty-five weeks and one shall be a full-time summer placement lasting not less than ten weeks) and one full-time placement of twelve months commencing on the first day of July, August, September or October in the year of completion of the prescribed academic course; the Ministries Council shall have power in exceptional circumstances to vary this arrangement.

The candidate will not normally be permitted to engage in academic study through a university or college or in remunerative employment or office during the course of the twelve months full-time placement at the conclusion of the academic course.

(b) The supervisor of each placement will be chosen by the Ministries Council and shall undertake training as specified by the Ministries Council. The supervisor shall be responsible for supervising the placement according to the guidelines and standards established by the Ministries Council and University, and shall produce assessment materials as required.

(c) The assessment materials shall be assessed by the Ministries Council. It shall be competent for the Ministries Council to refuse to sustain a placement where it considers that the Candidate has not met the required standard or for other relevant reasons.

Sustaining the Course
6. (a) The Ministries Council shall obtain from the universities lists of those Candidates who have satisfactorily completed their prescribed Course, whereupon the Secretary of the Ministries Council shall inform candidates that they have permission to commence their final placement.

(b) The Ministries Council shall, in consultation with the Presbytery, decide whether to sustain the final placement after nine months.

7. The Council shall maintain a list of those who have satisfactorily completed their training in terms of this Act and Act X 2004. An individual who has completed training, who has not been ordained as a Deacon and who has not applied to be removed from the above list, shall for the purposes of superintendence and discipline be treated in the same manner as a Graduate Candidate as defined in section 22 of Act X 2004 and all Acts and Regulations of the General Assembly relating to the superintendence or discipline of a Graduate Candidate shall apply to such individuals.

Ordination
8. (a) Entitlement. It belongs to Presbytery to ordain an individual to the Office of Deacon on his or her taking up an appointment. However, in order to ensure a general
standard of qualification and training for the Office throughout the Church, a
Presbytery may ordain a candidate to this Office only if it is furnished with a
recommendation to that effect from the Ministries Council.

(b) Procedure. The procedure leading to the act of ordination shall be the same as
the procedure described in section 29 of Act VIII 2003 for ministers of Word and
Sacrament, mutatis mutandis.

(c) Ordained status. A Deacon, on being ordained, shall have the authority of the
Church to exercise his or her appointed ministry. He or she shall be entitled to
append the letters “DCS” (Deacon of the Church of Scotland) after his or her name
and to wear the Diaconate badge. On being ordained, a Deacon shall be admitted
into membership of the Diaconate Council.

(d) Membership of Presbytery. A Deacon shall be a member of Presbytery if he or she
occupies a parish appointment, or any other post that would entitle a Minister of
Word and Sacrament to membership of Presbytery in terms of sections 11-13 of
Act III 2000, and the provisions of those sections shall determine which is the
relevant Presbytery. A Deacon who does not occupy such a parish appointment,
or other qualifying post, but who is registered on the Register of Ministry in
Category R, shall be entitled to apply for membership of Presbytery on the same
basis as a Minister of Word and Sacrament holding Category R registration, being
in terms of section 14 of Act III 2000.

Admission and Readmission of Deacons
9. Act IX 2002 (as amended) shall apply to the diaconate mutatis mutandis.

Transfer to the Ordained National Ministry
10. This section was deleted by Act V 2019.

B. FUNCTION OF DEACONS

The functions and sphere of service of a Deacon
11. The functions of the Diaconate are defined in section 15 of the Registration of
Ministries Act (Act II 2017). Those functions may be exercised in one or more of the
following spheres:
(a) service in the employment of a Council, Committee or Court of the Church;
(b) service in a Chaplaincy, including University, College, School, HM Forces,
Prison and Hospital, or as a Lecturer or Teacher in Religious Education, and in
similar spheres;
(c) other service which is approved by the Ministries Council and the Presbytery
concerned.

Deacons and Marriage Services
12. (1) The functions of a Deacon shall include the solemnisation of marriage, subject to
the permission and supervision of the minister or Interim Moderator of the parish
in which the marriage takes place.
(2) For the purposes of the conduct of marriages, section 4 of the Parish Ministry Act
(Act II 2018) shall apply to Deacons.

Retirement Age

**C. SUPERINTENDENCE OF DEACONS**

**Responsibility for Life and Doctrine**

14. (a) A Deacon shall be responsible for his or her life and doctrine to the Presbytery having jurisdiction in accordance with section 4(ii) of the Registration of Ministries Act (Act II 2017).

(b) A Deacon is under obligation to notify the Presbytery Clerk of any change of address.

**Responsibility for Service**

15. A Deacon shall be responsible for the due performance of his or her service as follows; namely:

(a) a Deacon, serving under a Council, Committee or Court of the Church shall be responsible to that body;

(b) a Deacon, serving outwith the jurisdiction of the Church of Scotland, shall be responsible to the employer.

**Registration of Deacons**

16. Deacons shall be registered on the Register of Ministry in accordance with the provisions of the Registration of Ministries Act (Act II 2017).

**The Roll of the Diaconate**

17. *These provisions are superseded by the Registration of Ministries Act (Act II 2017).*

**The Diaconate Council**

18. (1) The functions of the Diaconate Council, of which all Deacons shall be members, shall include the representation of the interests of all Deacons to the Ministries Council, and the support of the Ministries Council in the professional development of Deacons.

(2) The Constitution and Standing Orders of the Diaconate Council, and the Constitution of Local Associations thereof, are as set out in the Appendix, and are subject to the powers of alteration contained therein.

**D. REPEALS AND AMENDMENTS**

19. Sections 26 and 27 of Consolidating Act III 2000 anent Church Courts (as amended) are hereby repealed, and shall be replaced by a note reading *“See Act VIII 2010”*

20. Act II 1988 anent the Judicial Commission (as amended) is hereby further amended as follows:

- by the addition in paragraph 2(a), after the word ‘Ministers’ of ‘, Deacons’.
- by the addition in paragraph 2(j), after the word ‘Ministers’ of ‘, Deacons’.

21. Paragraph 1(c) of Act XV 2003 anent Scottish Criminal Records office Checks of Ministers, Deacons and readers in Terms of the Police Act 1997 (as amended) is hereby amended to read *“Deacon, for the purposes of this Act only, refers to all Deacons who are members of Presbyteries or holders of Practising Certificates.”*
For the avoidance of doubt, this Act does not apply to members of Deacons’ Courts."

APPENDIX A

CONSTITUTION OF DIACONATE COUNCIL

Functions
The Functions of the Diaconate Council hereinafter constituted shall be:

a) To formulate and express the collective views of its members
b) To make contacts with those engaged in like work at home and overseas
c) To provide opportunity for in-service training and personal development

Constitution
The Council shall consist of:

(i) All Deacons registered on the Register of Ministry in Category E or R
(ii) Deacons registered on the Register of Ministry in Category I may attend Council at their own expense and be non-voting members
(iii) Two members appointed by the Ministries Council
(iv) Deacons ordained or commissioned by the Church of Scotland who are serving overseas as members of another Church shall be entitled when on furlough to attend all meetings of the Council as corresponding members without the right to vote.

Office –bearers
The Office bearers shall be:

A President, who shall hold office for three years, and not be eligible for re-election.

A Vice President, who shall hold office for three years, and not be eligible for re-election.

A Secretary, who shall be appointed for three years and be eligible for reappointment.

A Treasurer, who shall be appointed for three years and be eligible for reappointment.

The President and the Vice President shall be elected by the Council in manner specified in the Standing Orders.

Committees
Business Committee – a Business Committee to attend to business during the meetings of the Council and at other times, as agreed, between Councils, may be constituted in manner provided in Standing Orders.

Other Committees
The Council shall have power to appoint, if it so desires, other Committees to facilitate its business and to consider various aspects of the service undertaken by Deacons.

Meetings
The Council shall meet for one day in January/February of each year.
The Council shall normally meet for two days in June of each year or as otherwise decided.

The Council shall meet in public or in private as the Business Committee may decide.

The Council may in exceptional circumstances meet at such other times as the Ministries Council appoint.

Procedure
Meetings shall each day be opened, and the Council closed with prayer.

Other procedures shall be as set out in Standing Orders. The cost of Council, including the travelling expenses of full members of Council, shall be met by the Ministries Council.

The Diaconate Council shall be represented on the Ministries Council through its President.

The administration of the Council shall be serviced by a Secretary appointed by the Diaconate Council and an admin assistant appointed and financed by Ministries Council.

Local Associations of Deacons
The Council shall set up Local Associations of Deacons, which shall have the following aims:

a) To provide a fellowship of Deacons
b) To be a channel through which Deacons may communicate to the Business Committee and/or Diaconate Council matters concerning Deacons or the wider interests of the Church
c) To give an opportunity to Deacons to express their views on matters of public interest
d) To be the body to liaise with such local groups as are related to the interest of the Diaconate
e) To do all things necessary for or incidental to the Constitution

Local Associations shall be governed by the Constitution.

Alteration of Constitution
Any alteration to this Constitution may be made only by a two-thirds majority of the whole membership of the Diaconate Council, upon a motion of which seven days' notice has been given to all members thereof.

APPENDIX B

THE DIACONATE COUNCIL – STANDING ORDERS

Standing Orders
Procedure at Meetings
The President, or in his or her absence the Vice-President, shall preside, whom failing the Council shall appoint its own Chairperson.

Proceedings each day shall be opened with prayer.

Business
The business of the Council shall include:-
(1) Election of Office-bearers, Committees and Representatives on the Ministries Council, such election to take place at the meeting of the Council in June.

(2) Reports from Local Associations, Committees of the Council, and the Ministries Council.

(3) Initiation of discussion on any matters which concern the Diaconate and the wider interests of the Church.

**Election of Office-bearers**
Nominations for the election of the President and Vice-President shall be sent in by Local Associations. Each Local Association shall send in a maximum of four nominations, selected from the whole membership of the Council, and those nominated must have been ordained/commissioned for at least five years. The Secretary shall draw up a list which shall be sent to all Deacons, both active and retired, for their postal vote.

**Business Committee**
The President, Vice-President, Secretary and Presidents of the Local Associations shall constitute the Business Committee.

**Other Committees**
Any Committee appointed by the Council by virtue of the power conferred on it in the Constitution shall be given a special remit, and shall report to the Council.

**Finance**
Members may be required to pay an annual subscription fee.

Any proposal involving finance amounting to more than the total of Council Funds shall, before action is taken, be referred to the Ministries Council.

**Minutes**
The Minutes of Diaconate Council shall be approved at the opening session of the next Council.

Full Minutes of the proceedings of the Council shall be circulated to all members.

**Reports**
Reports from Local Associations and Committees of the Council shall reach the Secretary at least seven days before the meeting of the Council.

**Any Other Business**
Local Associations or individuals may request an item of competent business to be placed on the Agenda, giving seven days' notice to the Council. Where shorter notice has been given, the mover shall briefly introduce the item and the Council shall, without discussion, decide by simple majority to take up the item of business.

**Close of the Council**
When the business set down for the final day of the session of the Diaconate Council has been completed, the Council shall appoint the date and place of its next meeting.

**Alterations of Standing Orders**
Seven days’ notice having been given, these Standing Orders, with the exception of the paragraph on Finance, may be altered by a two-thirds majority of the Diaconate present at a meeting of the Council.

APPENDIX C

LOCAL ASSOCIATION OF THE DIACONATE –CONSTITUTION

1. The name shall be “Church of Scotland Diaconate…..Local Association”

2. Aim
   (a) To provide a fellowship for Deacons
   (b) To be a channel through which Deacons may communicate to the Diaconate Council matters concerning the Diaconate or the wider interests of the Church
   (c) To give an opportunity to Deacons to express their views on matters of public interest
   (d) To be the body to liaise with such local groups as are related to the interests of the Diaconate
   (e) To do all things necessary for or incidental to the Constitution.

3. The aim shall be reached by:-
   (a) holding at least four statutory meetings each year;
   (b) providing an opportunity for corporate worship, retreat and help for the devotional life of Deacons throughout the year;
   (c) submitting to the Council a report which will include matters referred to the Local Association by the Council;
   (d) initiating business for the Council.

4. Membership
   All Deacons registered on the Register of Ministry in Category E or R shall be full members of the Association.
   All Deacons registered on the Register of Ministry in Category I shall be associated but without voting power.
   Deacons serving a probationary period shall be associated but without voting power.
   Deacons ordained/commissioned by the Church of Scotland who are serving overseas as members of another Church may be corresponding members, and when on furlough may attend meetings but may not vote.
   Deacons of other denominations may be associated.

5. Office Bearers
   The Association shall appoint its own office-bearers and committee in accordance with a procedure agreed by the Association in advance.

6. Subscriptions and meetings
   The Association shall fix the amount of subscription and arrange the time and character of its meetings.

7. Report for Council
The adoption of the Association’s Report for the Council shall be moved by one of the office-bearers.

After adoption by the Association, the Report shall be dispatched so as to be in the hands of the Secretary of the Council seven days before the meeting of Council.

8. **Individual Business**
Any business brought forward by an individual Deacon, if rejected by the Association, shall if desired by the Deacon, be forwarded by the Association with full comments to the Secretary of the Council.

9. **Election of President and Vice-President of Council**
On the occasion of the election of a President or Vice-President of the Council, the Association shall send to the Secretary of the Council by the end of February not more than four nominations for each office.

Nominations shall be selected from the whole membership of the Council and must have been ordained / commissioned for not less than five years.

10. **Change of Constitution**
Any change in this constitution proposed by the Association shall be notified to all other Local Associations, as each Association is governed by the same Constitution, and shall become effective only when approved by the Council.
I. LOCAL CHURCH REVIEW ACT (ACT I 2011)

Edinburgh, 21 May 2011, Session 1

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

1. The Presbytery shall conduct a review of every congregation in the Presbytery, normally once every five years. This is without prejudice to the right and responsibility of the Presbytery to make other superintendence visits as it deems necessary.

2. The object of the review by members of the Presbytery is to give encouragement and counsel to the congregation; to facilitate the congregation in setting out their priorities and plans for at least the next five years; and where anything unsatisfactory is found in the state of the congregation or not in accord with church law and order they shall give advice or take supportive or remedial action.

3. The review may be conducted as two separate exercises (and if appropriate by different representatives of the Presbytery), for the purposes of sections 4 and 5 below.

4. The Presbytery shall satisfy itself on the following matters and any other matters relating to the implementation of the law of the Church and the deliverances of the General Assembly: (To aid the Visiting Team initial information on these areas should be provided by the congregation as part of the advance information sent to the Visiting Team before the visits begin)
   (a) the administration of the Sacrament of Baptism to infants in accordance with Act V, 2000;
   (b) whether office-bearers are representative of the congregation’s life, for example in terms of age and gender;
   (c) whether the congregation’s current form of constitution serves its future mission;
   (d) whether the employment status of members of staff, the formal relationships among them and the prioritisation of work amongst them serves the congregation’s mission effectively;
   (e) compliance by the Kirk Session with the church law and civil law relating to Safeguarding;
   (f) compliance with those provisions of Act XII 2007 regarding the provision and maintenance of manses;
   (g) implementation of the findings of the most recent property surveys;

5. The Presbytery shall undertake a review of the work of the congregation and an exploration of the future direction of the mission of the congregation using guidance materials provided by the Mission and Discipleship Council. The purpose of the review is to establish:
   (a) The congregation’s own analysis of its purpose and vision for the future: this should include all aspects of the church’s work as defined by that congregation, including worship, service, fellowship, discipleship, evangelism, social outreach, congregational life, Christian education, finance, fabric, and ministries support in relation to the local, national and international mission of the Church.
(b) The nature of the working relationships amongst office-bearers, and between the
office-bearers and the minister.
(c) The values that shape and direct the life of the congregation.
(d) How the life and work of the congregation has developed since the last review.
(e) What challenges have been encountered, and how these have been or can be
dealt with.
(f) How the congregation plans to implement its vision for the future.
(g) What resources the congregation needs for its development, change and growth,
and the source of such resources.

6. The process of review shall involve the production of an action plan for the congregation
expressing a vision of the local church for its mission over at least the next five years,
taking account of the resources available and the current Presbytery Plan.

7. The review shall include a visit by a team appointed by the Presbytery to the local church,
where they will meet with members of the ministry team, elders and other representative
members of the congregation.

8. The structure of the review by the Presbytery representatives shall reflect the needs of
the local church. It may include more than one visit, different meetings with different
groups, follow-up meetings, separate meetings with the minister, separate meetings with
office bearers and such other meetings as it considers necessary. The leader of the
Visiting Team or his or her duly appointed deputy shall take the chair at all
aforementioned meetings.

9. In all cases the Visiting Team (or teams) shall submit a full report (or reports) to the
Superintendence Committee of the Presbytery and to the minister and Kirk Session. The
Visiting Team shall make every effort to agree the terms of its report with the Kirk
Session, and shall indicate in the submitted report any outstanding areas of
disagreement. The report shall narrate the current circumstances of the congregation,
the intentions and plans of the minister and Kirk Session, the action plan referred to in
section 6 and make recommendations for action and support by the Presbytery, and a
time-table for subsequent superintendence and congregational action.

10. The Superintendence Committee shall, after due and careful consideration of the report
of the Visiting Team, submit a final Report to the Presbytery with its findings and a note
of any comments received from the minister or Kirk Session. The minister or Kirk Session
or any other party having an interest shall have the right to be heard by the
Superintendence Committee and/or the Presbytery when the report is being dealt with
by either body.

11. Once approved by the Presbytery, the Superintendence Committee shall forward a copy
of the report to other relevant Committees of the Presbytery mentioned as part of the
report’s recommendations for action and support.

12. In the event of the Presbytery finding itself unable to express satisfaction with the state
of any congregation, it shall instruct the Superintendence Committee to make further
inquiry and to endeavour to remedy what is deemed to be unsatisfactory. If, after this
further enquiry, the Presbytery finds that it is still unable to express satisfaction, it shall proceed under Act I, 1988.

13. In the case of a Single Congregation Local Ecumenical Partnership (LEP) and Churches in Covenanted Partnership, which are recognised by the National Sponsoring Body for Local Ecumenical Partnerships (NSBLEP), an Ecumenical review in the form approved by the NSBLEP on 14 March 2008 shall be deemed to fulfil the requirements of this Act for the Church of Scotland. For the avoidance of doubt this is without prejudice to the general right and responsibility of the Presbytery to exercise superintendence in other ways, and it is without prejudice to the requirement of the regulations of any other denomination which is a partner in the same LEP.

14. The Presbytery shall have the ability to develop the process to fit its own needs, provided only that the requirements set out in this Act are fulfilled.

Consequential Amendments
14. The following Acts and Regulations are hereby repealed or amended:
   (1) Act II 1984 is hereby repealed.
   (2) Act III 2000 s.39 is hereby amended by the deletion of the words “Act II 1984 anent Presbytery Visits (as amended)” and the substitution of the words “Act XXX 2011 anent Local Church Review”.
   (3) Act VI 2002 s.2 is hereby amended by the deletion of the words “Act II 1984 anent (as amended)” and the substitution of the words “Act XXX 2011”
   (4) Act VI 2004 is hereby amended by the deletion of section 20.
   (5) Regulation 2, 2004 is hereby amended by the deletion of the words “Presbytery visits” and the substitution of the words “Local Church Reviews”.

APPENDIX TO ACT I, 2011

LOCAL CHURCH REVIEW GUIDELINES

The specific aims of Local Church Review and the requirements to be met are laid out in the Act anent Local Church Review. Beyond that, Presbyteries may develop their own systems within the stated requirements. The following guidelines are designed to help Presbyteries develop a system of Local Church Review appropriate to their needs. It is important to note that these guidelines are not exhaustive and are not intended to restrict Presbyteries to a particular way of fulfilling their obligations in terms of the Act.

Advance preparation
The Leader of the Presbytery Visiting Team should contact the minister of the congregation in advance to outline the process and to suggest dates for the visit or series of visits. The Kirk Session should appoint a group of key office bearers to:

(1) Provide information in advance of the Presbytery Visit (see Appendix 3). [This information should become part of a database of basic statistical and contextual information on the congregation, and on the parish that the local church seeks to serve. Presbytery should keep a record of this to assist with future reviews.] and
To meet with the Presbytery Visiting Team prior to the Presbytery Visit to the whole congregation.

Pre-Meeting with key office bearers
The Presbytery Visiting Team should meet with the group of key office-bearers to explain the new process in detail, and to confirm the date(s) of the visit(s). The meeting with key office-bearers should review at least the areas set out in section 5a) to g) of the Act anent Local Church Review. This visit should encourage the key office-bearers to:

a) Express the life of the congregation as they see it, sharing what has gone well in the past ten years, what has been difficult, where they see the congregation’s strengths and weaknesses and how they discern God to have been at work in their midst.
b) Look forward for at least the next five years to identify the changes that are likely to take place in the congregation and parish as well as the opportunities and challenges that might present themselves within the same time frame.
c) Review the database of basic statistical and contextual information on the congregation, and on the parish that the local church seeks to serve.
d) Discuss how the congregation understands its role within the Presbytery Plan.
e) Express what resources might help the congregation to better worship, witness, nurture and serve.
f) Satisfy itself on the matters listed in Section 4(a) to (g) of the Act anent Local Church Review. [This may also be done as a separate exercise under the terms of Section 3 of the Overture]

The Presbytery Visit
Having reflected on the meeting with key office-bearers the Presbytery Visiting Team will meet with the other office-bearers and members of the congregation. Already having a picture of the work and future desires of the congregation the Presbytery Visiting Team will review the congregation’s work and explore the future direction of the mission of the congregation in a way that is appropriate to the congregation by facilitating a wide ranging discussion on the life of the congregation and parish and the mission of the congregation locally, nationally and globally.

Plan of Action
The process should result in a Plan of Action for the congregation. The plan should bring together the vision of the congregation for its mission over the next 5 years, taking account of its present position, its capacity and finances.

This should highlight the following as a minimum:

- A plan of action for the forward mission and ministry of the Church with goals that are Specific, Measurable, Achievable, Realistic and Time–limited (SMART goals).
- Resources available locally including human resources, buildings and finance.
- New resources required and who shall provide them.

The Final Report
The report should set recommendations, give advice, and where appropriate it should set a timetable for action, preferably, a timetable agreed with the Kirk Session. The Plan of Action outlined above should be included in the report. The report should outline the achievements
of the congregation, any difficulties faced, and what Presbytery or the congregation itself can do to contribute to the welfare and development of the congregation.

The following questions are given as a helpful guide for the Presbytery Visiting Team to consider as they write their report. These are to be seen as neither exhaustive nor prescriptive:

**Where things are going well:**
- How can the Presbytery affirm and nurture this further?
- How can the Presbytery encourage the sharing of this vitality with others?

**Where the congregation is facing up to specific challenges (internally or externally):**
- What changes are needed in attitudes, relationships, strategy or structure?
- What specific resources are needed to meet this challenge eg developing worship, discipleship, practical skills in finance/fabric, deepening spirituality?
- What are the potential partnerships with other agencies, other churches?
- What support is needed to resolve internal conflict/dysfunction?

**Where the congregation can no longer sustain this model of church life or engage in effective mission:**
- What other form of Christian presence would they consider?
- What other partnerships would they consider?
- What resourcing is needed to equip the congregation for a new future?
- What is the pastoral process of closure and/or dissolution?

**Where the congregation is no longer in sync with the community:**
- What long-term process is needed to help them reconnect?
- How will this process be facilitated and by whom?

**Review as a Continuous Process**
The process of review should be a continuous process and not just seen as that which is done by the Presbytery Visiting Team. The provision of good data provides the basis for good reflection, and is not an alternative to the reflection; the reflection provides the basis for a plan of action, and the plan of action leads to action. The cycle then repeats, the actions that are undertaken should be reviewed and reflected upon with a view to further improvement. This continuous cycle may be represented as follows:

**LOCAL CHURCH REVIEW INFORMATION REQUIRED IN ADVANCE**
Factual Information
Please provide information and comment on the following areas of congregational life:
1. Membership: statistics for the past ten years including estimated age profile;
2. Worship: average weekly attendance (numbers, age profile, gender), style, musical range, use of audio visual equipment, innovations;
3. Pastoral Care: number of baptisms, weddings, funerals per year, specific demands of the situation, ways of sharing responsibilities;
4. Christian Nurture: numbers involved in Christian nurture: children, young people, young adults, adults; resources used;
5. Mission: specific mission initiatives – local or international, school involvement or other chaplaincies, evangelism training and strategies, communication;
6. Leadership: staffing, numbers of office-bearers including age and gender profile, training, structure, constitution;
8. Finance: accounts, budget, allocations, shortfalls, Christian giving plans, special projects, statistics for givings over ten years;
9. Support for Minister or Ministry Team: administrative support, travelling expenses, study leave, additional staff needs;
10. Wider Church: relationship with Presbytery, Councils of the Church and ecumenical relationships;
11. Community: relationship with community groups or agencies;
12. Presbytery Plan: what are the interim steps and 10 year conclusions for your congregation in the Presbytery Plan? How do you see these working out?

Legal Information
Please provide information on the following legal requirements that a congregation must fulfil:
1. The administration of the Sacrament of Baptism to infants in accordance with Act V, 2000;
2. Whether office-bearers are representative of the congregation’s life, for example in terms of age and gender;
3. Whether the congregation’s current form of constitution serves its future mission;
4. Whether the employment status of members of staff, the formal relationships among them and the prioritization of work amongst them serves the congregation’s mission effectively;
5. Compliance by the Kirk Session with the church law and civil law relating to Safeguarding;
6. Compliance with those provisions of Act XII 2007 regarding the provision and maintenance of manses;
7. Implementation of the findings of the most recent property surveys.
The General Assembly enact and ordain as follows:

1. **Definitions**
   In this Act the following definitions apply:
   
   (a) “The Council” is the General Assembly’s Ministries Council responsible for recruitment, selection and training for the ministries of the Church.
   
   (b) “The Committee” is the body to which the Council may from time to time delegate authority to determine matters relating to assessment and selection, and to university courses and practical training requirements in preparation for ministries.
   
   (c) “The Assessment Conference” is the body of trained Assessors to which the Committee delegates authority to assess the calling and fitness of applicants for Ordained Local Ministry, and to accept as prospective candidates those deemed appropriate.
   
   (d) *This definition was repealed by Act XIII 2014.*
   
   (e) “Applicants” are persons who are seeking to be recognised as candidates for the Ordained Local Ministry.
   
   (f) “Prospective Candidates” are persons who have been accepted by the Committee and who are awaiting the outcome of their application to Presbytery for nomination.
   
   (g) “Candidates” are persons who have been both accepted by the Committee and nominated by their Presbytery. The term “Candidate” may not be used of or by any person who has yet to be, or who has failed to be, nominated by Presbytery.
   
   (h) “Presbytery of the bounds” is the Presbytery containing the larger or largest part of the area of the Ordained Local Minister’s responsibilities.

2. **General**
   
   (1) An Ordained Local Minister is a person who has been ordained for life to a Ministry of Word and Sacrament exercisable on a non-stipendiary and normally a part-time basis, supporting the Ordained National Ministry of the Church.
   
   (2) Except insofar as qualified by the terms of this Act, an Ordained Local Minister is hereby declared to be a Minister of the Church of Scotland. An appointment to a designated appointment is to an office of the Church of Scotland.
   
   (3) No person by virtue of his or her status as an Ordained Local Minister shall be eligible for induction to a Charge.

3. **Entrance Qualifications**
   
   (1) Applicants must be persons:
   
   - (i) who are possessed of such professional, vocational or educational experience as shall be acceptable to the Committee, and
   
   - (ii) who have demonstrated the potential to cope with and benefit from the academic course involved in training for the Ordained Local Ministry.
   
   (2) Proficiency in spoken and written English will be required.
(3) No person who has not been accepted as a candidate for Ordained National Ministry (including Auxiliary Ministry) or the Readership on three occasions may apply to be considered for Ordained Local Ministry.

4. Vocation Information Day and Initial Screening Interview
   (1) A person wishing to apply for the Ordained Local Ministry of the Church of Scotland shall have a Discernment Conversation with a staff member of the Recruitment Team to determine how they will proceed, and should they subsequently make application, this will be followed by an Initial Screening Interview arranged by the Council.
   (2) A person deemed ready to proceed after that interview shall be entitled to apply in terms of section 6 to be recognised as a Candidate for the Ordained Local Ministry. Any person who makes such an application shall be known as an applicant.
   (3) A person who is not deemed ready to proceed after that interview must wait a period of between one and three years, as notified to that person by the Committee in writing, before they may again attend an Initial Screening Interview. If at a second Initial Screening Interview a person is again deemed not ready to proceed, they must wait a further period of between one and three years, as notified to that person by the Committee in writing, and may then attend a third Initial Screening Interview. If such person is still deemed not ready to proceed at the third Initial Screening Interview, then they shall not be entitled to attend any further Initial Screening Interview and their application for the Ordained Local Ministry of the Church of Scotland shall not proceed any further.
   (4) The outcome of each Initial Screening Interview shall be final and not subject to any form of review or appeal.

5. Age, Time and Membership Limits
   (1) The Committee will not consider an application from any person who has not attained the age of eighteen years by the date on which the Committee receives the application. No upper age limit shall apply to application for acceptance for training. Applicants may, at the discretion of the Committee, be required to undergo a medical examination to demonstrate their fitness to undertake training for ministry.
   (2) The acceptance of a person as a Prospective Candidate may be reviewed by the Committee if that person’s prescribed course of training has not been begun within three years of that acceptance.
   (3) The Committee will not normally consider an application from any person who is not yet a member of the Church of Scotland, or who has not been a member for a minimum of three years immediately prior to receipt of the application.

6. Submission of Application Form
   (1) The Council will, on request, issue to each applicant who has fulfilled the requirements as set out in sub-section 4(2) the relevant application form, which shall be completed by the applicant and sent to the Committee by the date determined and supplied by the Council.
   (2) The Council will inform Presbyteries of applicants within their bounds, the appropriate Presbytery being determined according to section 9(2) of this Act.
7. **Period of discernment and Local Review**

(1) Following the Council’s receipt of their application, the applicant will enter a period of discernment with a Local Mentor. During the period of discernment, the applicant and the Local Mentor shall explore together the nature of the applicant’s call and gifting. The period of discernment shall last for three to six months. The Local Mentor will be chosen by the Committee and shall undertake such training as may from time to time be specified by the Committee. The Local Mentor shall be responsible for supervising the period of discernment according to the guidelines and standards established by the Committee, and shall produce assessment materials as required using such *Indicators for Assessment* document as may be from time to time in use by the Council. During the period of discernment the applicant shall also meet regularly with a representative (or representatives) of Presbytery.

(2) At the end of the period of discernment the applicant shall proceed to a Local Review. The Local Review will be undertaken by a group consisting of up to two assessors appointed by the Council, the Local Mentor and up to two representatives appointed by the Presbytery.

(3) In addition, before the end of a period of discernment, the Presbytery or the Council may require that an early Local Review takes place. Such a Review shall be undertaken by the same group as specified in section 7(2) but may only reach a decision in terms of section 7(4) (ii), (iii) or (iv). Sections 7(5) and 7(6) shall still apply.

(4) Subject to the provisions of section 7(3), arising out of the Local Review, one of the following written decisions shall be reported by the Review to the Committee:

(i) That the applicant is ready to proceed to National Assessment in terms of section 8;

(ii) That the applicant should undergo a further period of discernment of such length as may be determined by the Local Review before a decision to proceed to National Assessment can be made;

(iii) That the applicant is not yet ready to proceed to National Assessment in terms of section 8;

(iv) That the applicant is not suitable to proceed to National Assessment in terms of section 8.

(5) Applicants in respect of whom a decision is made in terms of paragraph 7(3)(iii) may apply, in each case from one year after the decision of the previous Local Review, to undertake up to two further periods of discernment.

(6) An applicant shall have the right to request a Committee Review by the Committee in relation to a decision made in terms of paragraph 7(3)(iv). Any such Review will be subject to the provisions of paragraph 8(6) below. Notification of the intention to request a Committee Review shall be made to the Council within 28 days of the decision being intimated. The applicant shall be entitled to appear in person and the Chair of the Local Review Panel shall also appear to present the case for the Local Review Panel decision. The applicant may be accompanied by a companion, who shall not be entitled to speak. The decision of the Committee shall be intimated to the applicant within three working days of the Committee Review. If the applicant is dissatisfied with the outcome of the Committee Review, he or she may appeal to the Ministries Appeal Panel in terms of Act VI 2007. The appellant must make intimation of intention to appeal within 21 days to the Secretary of the Council.
(7) (i) All materials received by the Committee from the Local Review in terms of sub-section (3) above shall be made available to those making consideration in terms of sub-section 8(1).

(ii) No individual shall serve as an assessor for the same applicant more than once.

8. **National Assessment**

(1) The Committee shall make suitable arrangements for the careful consideration of the applicant’s character and beliefs, vocation, motivation and general suitability, shall be responsible for accepting or not accepting the applicant as a prospective candidate for the ministry and shall inform the Presbytery of this decision. The Committee may delegate to the Assessment Conference powers to reach decisions on its behalf. Notwithstanding its responsibilities in terms of sub-section 7(2) above, the Presbytery shall be entitled to submit to the Committee written comments on the applicant’s character and beliefs, vocation, motivation and general suitability. The Conference shall report its decision to the Committee which shall pass the names of prospective candidates to the Presbytery for nomination as candidates in training for the Ordained Local Ministry.

(2) All applicants who are accepted as candidates shall receive, as part of their training and development, feedback from the Committee on their assessment. Applicants who have not been accepted as prospective candidates shall be offered the opportunity to receive, through the Committee, feedback outlining the reasons for their non-acceptance.

(3) An applicant who has not been accepted as a prospective candidate may re-apply to be considered on up to two further occasions, provided that at least one year elapses between each application. An applicant who has been considered by the Committee on three occasions without being accepted as a prospective candidate may submit a fourth application only with the prior approval of the Committee.

(4) An applicant who has not been accepted by an Assessment Conference of the Council shall have the right to request a Committee Review by the Committee subject to the provisions of sub-section 8(5). No person who was part of the decision-making process of the Assessment Conference shall be part of the review process. Notification of the intention to request a Committee Review shall be made to the Council within 28 days of the intimation of the decision. At the Committee Review the applicant is entitled to appear in person and to address the Committee. He or she may be accompanied by a companion, who shall not be entitled to speak. A representative shall also appear to present the case for the decision reached in terms of sub-section 7(1). All parties will be in possession of the reports from the Local Review Panel and the Assessment Conference. If the applicant is dissatisfied with the outcome of the Committee Review, he or she may appeal to the Ministries Appeal Panel in terms of sub-section 8(6).

(5) An applicant intending to appeal to the Ministries Appeal Panel against a Committee Review in terms of sub-section 8(4) above may do so subject to sub-section 8(6), and shall intimate such intention within 21 days to the Secretary of the Council.

(6) A Committee Review in terms of sub-section 7(5) or 8(4), or an appeal in terms of sub-section 7(6) or 8(5), can only be brought on one or more of the following
grounds:
(i) that in the course of the Local Review Panel or Assessment Conference there were irregularities in the process;
(ii) that the final decision was influenced by incorrect material fact; or
(iii) that the Local Review Panel or Assessment Conference acted contrary to the principles of natural justice.

For the avoidance of doubt, it shall be competent for the purposes of this Act to appeal against a decision made in the name of the Council, and the relevant provisions of Act VI 2007 anent the Ministries Appeal Panel shall apply.

9. **Nomination by Presbytery**
   (1) A prospective candidate seeking nomination by the appropriate Presbytery as a candidate for the Ordained Local Ministry of the Church of Scotland shall apply in writing to that Presbytery as soon as, but not before, the Council indicates acceptance as a prospective candidate for the Ordained Local Ministry.
   (2) Application for nomination shall normally be made to the Presbytery within whose bounds is situated the congregation of which the prospective candidate is a communicant member, or with reference to section 5(3), in exceptional circumstances where the person is not yet a member of the Church of Scotland, to the Presbytery in which the applicant is resident.
   (3) If satisfied with the prospective candidate’s character, beliefs, vocation, motivation and general suitability, the Presbytery shall then nominate him or her as a candidate for the Ordained Local Ministry and shall give notice of such nomination to the Council forthwith.
   (4) A prospective candidate who has been refused nomination by the Presbytery has the normal right of appeal to the Commission of Assembly in terms of Act VI 1997 as amended. The prospective candidate may in any event submit a re-application for nomination on up to two further occasions, provided that at least one year elapses between each application.
   (5) After nomination by his or her Presbytery, a prospective candidate’s name shall be included in a list of prospective candidates for the Ordained Local Ministry maintained by the Council, and shall remain on the said list during the period of his or her training.

10. **Content of Academic Course**
    The Candidate’s course of study shall always include:
    (1) the interpretation and use of Holy Scripture, both Old and New Testaments;
    (2) the development and growth of the Christian Church including special reference to the Church of Scotland;
    (3) the principal doctrines of the Christian faith, their interpretation, their defence and their application, in particular, the history and theology of the Sacraments;
    (4) the principles of Christian ethics;
    (5) the practice of ministry with attention being given to such topics as may be specified from time to time by the Council; and
    (6) such other academic and practical topics as may from time to time be considered as part of the Candidate Conference programme provided by the Council.
11. **Nature and Duration of Academic Course**
   (1) Study will normally be undertaken on a part-time basis. A Candidate for the Ordained Local Ministry will be required to undergo the course of training as prescribed by the Committee.
   (2) Each Candidate shall be required to attend such periods of residential or day training as the Committee may from time to time deem appropriate.
   (3) The course of training shall extend over a period to be determined from time to time by the Council.
   (4) The content of the said academic course and its duration may be varied at the discretion of the Committee, but only where a Candidate has already attained a qualification in theology deemed appropriate by the Committee in the context of the academic course prescribed for the Ordained Local Ministry.

12. **Placements**
   (1) As part of the Church requirements, three periods of placement work shall be undertaken by the candidate, and must be completed to the satisfaction of the Committee which shall determine the length and content of each placement. The placements shall normally include two during the academic course which shall be part-time and shall last not less than twenty-five weeks and one part-time probationary placement of twelve months normally commencing on the first day of October following satisfactory completion of academic requirements; the Committee shall have power in exceptional circumstances to vary this arrangement. During the probationary placement the candidate may be permitted to engage in some academic study.
   (2) The supervisor of each placement will be chosen by the Committee and shall undertake training as specified by the Committee. The supervisor shall be responsible for supervising the placement according to the guidelines and standards established by the Committee, and shall produce assessment materials as required.
   (3) The assessment materials shall be assessed by the Committee. It shall be competent for the Committee to refuse to sustain a placement.
   (4) The Committee shall obtain from the candidate evidence that he or she has satisfactorily completed the prescribed course of study, whereupon the candidate will be permitted to commence the final placement.

13. **Supervision during Course**
    Throughout the course of training a candidate must remain under the oversight and pastoral supervision of a Presbytery, initially the Presbytery which nominated him or her, and shall inform the Presbytery of any change of address.

14. (1) Where a candidate’s permanent place of residence changes following nomination so that the oversight and pastoral supervision of the nominating Presbytery is no longer possible, the candidate shall, within two months of changing residence, apply in writing to the nominating Presbytery, to be transferred to the supervision of the Presbytery within whose bounds he or she now resides. On granting such application the Presbytery shall forward an Extract Minute to that effect to the candidate, to the Presbytery within whose bounds the candidate now resides, and to the Committee.
(2) Prior to each official meeting with the candidates under its supervision the Presbytery shall initiate consideration of the circumstances of any candidate who has thus changed his or her permanent place of residence but who has not made formal application to transfer. The Presbytery shall thereafter raise with the candidate concerned the question of which Presbytery might most appropriately be responsible for the continuing supervision, and shall have power to effect a transfer to that Presbytery within whose bounds the candidate now has permanent residence. When such a transfer is effected an Extract Minute to that effect shall be sent forthwith to the candidate, to the Presbytery within whose bounds he or she now resides, and to the Committee.

15. Initial Course Meeting
   (1) At the outset of the candidate’s course an Initial Course meeting will be held, attended by the candidate, a representative of the Presbytery, a representative of the Ministries Council and whichever member of the staff of the Ministries Council has been allocated responsibility for the care of the candidate (which staff member may, for this purpose only, act also as the representative of the Council).
   (2) At the Initial Course meeting the candidate and those representing the Presbytery and the Council shall subscribe an Expectations and Responsibilities document and agree academic, practical and personal goals for the candidate in his or her first year in training. At the beginning of each placement a Learning Covenant will be agreed by the Supervisor and candidate on placement.
   (3) Other tasks of the Initial Course meeting, and its structure and procedure, shall be as determined from time to time by the Council.

16. Annual Review
   (1) An Annual Review meeting shall be held at the end of each academic year in which training has been undertaken, whether or not the candidate has undertaken academic study during that year, and shall be carried out in terms of this section except during the final, probationary placement when the provisions of section 17 shall apply. The functions of each meeting shall be to review progress, to affirm or revoke the candidate’s status, and to set goals for the coming year.
   (2) In attendance will be the candidate, up to two representatives from each of the Presbytery and the Council, with the appropriate staff member present in an administrative capacity only. The meeting will be convened by one of the representatives of the Presbytery. The candidate may be accompanied by a companion, who may be the supervising minister of the candidate’s most recent placement; the companion shall not be entitled to speak. No-one may act as a representative of the Presbytery or of the Council who has not received appropriate training as shall be determined and provided by the Council. For the avoidance of doubt, the representative(s) appointed by Presbytery shall be appointed with powers to make decisions on behalf of Presbytery.
   (3) At the Annual Review meeting the candidate’s progress shall be reviewed, with reference to (a) the Expectations and Responsibilities and Learning Covenant documents and (b) the draft report prepared in terms of sub-section (4).
   (4) The staff member shall receive written reports from the candidate, the supervising minister (if any) and the College (if academic study has been undertaken during the year); and shall use them, along with such Indicators for Assessment document as may be from time to time in use by the Council and the Expectations
and Responsibilities document, to prepare a draft report for consideration at the Annual Review meeting. The separate reports and the draft report shall be circulated to all those attending the Annual Review meeting, and at the meeting the report shall be revised and agreed, and thereafter distributed by the Council to the Presbytery representatives and the candidate. If the candidate dissents from the report or any part thereof, his or her dissent and the reasons for it shall be recorded in the report, but shall not alter the status of the report for the purposes of this Act.

(5) The final report may contain one of the following conclusions:
(a) that progress is entirely satisfactory; or
(b) that pieces of work require to be completed, or areas of work require to be improved, within a period of time specified in the report; or
(c) that an extension of training requires to be arranged by the Council and a further, final Annual Review conducted (this option may be exercised only once in any academic year); or
(d) that the candidature should be terminated.

(6) The candidate may appeal within twenty-one days against a decision in terms of paragraphs (5)(c) or (5)(d) on one or more of the following grounds: (a) that in the course of the Annual Review there were irregularities in the process, (b) that the final decision was influenced by incorrect material fact, or (c) that the Annual Review acted contrary to the principles of natural justice.

(7) Other tasks of the Annual Review meeting shall be as determined from time to time by the Council.

17. Final Placement and Sustaining the Course
The review process during the final probationary placement shall be as follows:
(1) After six months, an informal review of the placement shall take place, conducted by a member of the Presbytery, the Committee and the appropriate staff member, and any concerns shall be addressed either informally or by recourse to the procedures set out in section 18.

(2) A Review shall be held in the twelfth month. This notwithstanding, a Review with full powers may be held at any time at the discretion of the Training Task Group. The Review shall follow the procedure described in section 16; and in addition to the conclusion reached in terms of sub-section 16(5), it shall be decided whether the final placement can be sustained and whether the candidate is fit to be ordained in due course: the Presbytery representatives shall be appointed in such a way as to have powers to indicate the final approval of the Presbytery at this stage.

(3) Where such approval has been given, the Committee shall satisfy itself that the requirements of sections 10, 11 and 12 have been fulfilled, including all academic requirements. Provided all such requirements are satisfied, the Council shall have the power to issue an Exit Certificate upon completion of the probationary placement, at which point the candidate shall become a Graduate Candidate and shall then remain under the supervision of the Presbytery within whose bounds the final placement was undertaken, pending ordination to an appointment.

(4) The Presbytery shall in each calendar year assess in terms of the criteria set out in section 9(3) above, the general suitability of each Graduate Candidate and, if satisfied, shall issue a Graduate Candidate’s Certificate confirming continuing
approval, and shall advise the Ministries Council by 31 December. Candidates will have a right of appeal in the event of the Presbytery declining to issue a Certificate.

(5) A Presbytery must obtain a current Graduate Candidate’s Certificate for any Graduate Candidate whose call or appointment is to be sustained by that Presbytery after 31 December of the year in which his or her Exit Certificate was awarded.

18. **Complaints Procedure**
Subject always to the provisions of the Discipline Act (Act I 2019), which shall apply in respect of a Disciplinary Complaint (as that term is defined in the Discipline Act) relating to a Candidate, Probationer or Graduate Candidate (as those terms are used in this Act), the provisions of this section shall apply:

(a) where any party to an *Expectations and Responsibilities* document claims that another party is in breach thereof; or

(b) where the Presbytery or the Council claim that a candidate has failed to fulfil his/her obligations under the agreed *Learning Covenant*; or

(d) where a material complaint is made to the Council or Presbytery about the candidate’s conduct during training.

Any such claim or complaint shall be intimated by lodging with the Leader of the Training Task Group a written statement providing specific details thereof. The Leader of the Training Task Group shall intimate the statement to all parties to the document or covenant, and the statement shall be retained by the Council for a period of one year.

19. (1) As soon as is reasonably practicable after receipt of the statement referred to in section 18, one of the Council’s staff shall meet with all relevant parties and seek to resolve such claim or complaint to the satisfaction of all concerned.

(2) In the event that such resolution is not possible, any party to the document or covenant may request a formal meeting of all parties in order to determine what is required to effect resolution.

(3) Such a formal meeting shall be attended by up to two representatives of each of the parties to the document or covenant, and shall be called by the Council and shall be convened by a staff member of the Council, who will notify all parties in writing of the conclusions of the meeting. Such notification shall provide details of the consequences that will ensue in the event of failure by any parties to adhere to the conclusions of the meeting.

(4) The provisions of this section 19 shall not apply where the Committee makes a resolution in terms of section 20(2) below.

20. (1) In the event that no agreement is reached between parties at such a formal meeting as to the facts, or no agreed resolution is reached; or in the event that any party fails to adhere to the agreed conclusions, the Convener of the Committee shall convene a Hearing of all relevant parties.

(2) Furthermore, the Committee shall have power to resolve that it will not be possible to reach a resolution under a section 19 process, in which case the Convener of the Committee shall convene a Hearing of all relevant parties without recourse to the procedure set out in section 19.

(3) The Hearing shall be held as soon as is reasonably practicable. At such a Hearing the candidate shall be present and may be accompanied by a companion who
shall not be entitled to speak. The panel for the Hearing, in addition to the Convener, shall comprise two representatives of Presbytery and two representatives of the Council, none of whom shall have had prior personal involvement with the claim or complaint giving rise to the Hearing. The two representatives appointed by Presbytery shall be appointed with powers to make decisions on behalf of Presbytery. A Council staff member shall attend as an adviser.

(4) In the event that the claim giving rise to the Hearing relates to a breach by the Committee, or that the failure is by the Committee, the Hearing shall be convened by the Convener of the Council and not as in sub-section (1) hereof.

(5) At the Hearing all parties thereto shall be entitled to present evidence, to question witnesses and to make a concluding statement. At the conclusion of the Hearing, or as soon as may be practicable thereafter, the panel shall issue its decision and advise all parties. Such a decision shall be final and binding on all parties, subject only to appeal to the Ministries Appeal Panel in terms of Act VI 2007 on the following grounds:

(a) an error in Church law;
(b) breach of the principles of natural justice or material irregularity of process;
(c) decision influenced by incorrect material fact; and
(d) the severity of any sanction imposed. The intention to appeal shall be intimated to the Council within 21 days of the panel's decision.

21. Ordination and Notification

(1) A Presbytery may not ordain any Candidate into a designated Ordained Local Ministry appointment until it has received an Exit Certificate from the Committee.

(2) Presbyteries shall be responsible for sending to the Council and to the Editor of the Year Book extract Minutes certifying the ordination of Ordained Local Ministers. Similar notification must be sent for each new designated appointment undertaken by an Ordained Local Minister.

(3) After ordination the Committee shall cease to be responsible for the supervision of the Candidate concerned.

22. Appointments and Reviews

(1) An Ordained Local Minister may serve in one or more Presbyteries of the Church of Scotland, undertaking such designated appointments as the Presbyteries may from time to time determine. If the appointment is to a particular charge or charges, the approval of the Kirk Session(s) will also be sought.

(2) The conditions regulating each designated appointment shall be defined in writing by the Presbytery of the bounds in consultation with the Ordained Local Minister and all interested parties (including any relevant Kirk Sessions).

(3) The Presbytery of the bounds shall be entitled at any time to carry out a review of any designated appointment, and in the light of such review to

(i) suspend or terminate the appointment;
(ii) renew the appointment;
(iii) vary the conditions regulating the appointment.

(4) When an Ordained Local Minister ceases to serve in a designated appointment he or she shall become subject to section 19 of the Registration of Ministries Act (Act II 2017).

23. Relationship with Courts of the Church

(1) An Ordained Local Minister shall be associated with the Kirk Session of any Parish
or Parishes within which he or she is to operate. He or she shall be entitled to membership of Presbytery. Where an Ordained Local Minister serves in more than one Presbytery, he or she shall have membership of the Presbytery of the bounds. Where there is an equal division of responsibilities between designated appointments, the Ordained Local Minister shall choose the Presbytery of which he or she is a member, but shall be subject to both or all Presbyteries.

2. When an Ordained Local Minister moves from one Presbytery to another he or she shall be subject to the terms of section 26 of the Registration of Ministries Act (Act II 2017).

24. **In-Service Training**
   While in active service, Ordained Local Ministers shall engage in regular in-service training. For those who have completed the basic course of academic training in theology, this will normally mean continuing part-time study towards diploma or degree standard. The individual course of study will be determined by the Presbytery in consultation with the Council. If an individual has achieved degree standard in theology, an individual learning plan will be negotiated to ensure an ongoing commitment to continuing ministerial development. This will be approved annually by the appropriate Committee of Presbytery, who shall liaise with the Council on availability of courses and appropriate funding.

25. **Remuneration**
   (1) Ordained Local Ministry is a non-stipendiary form of ministry and no remuneration shall be offered which is directly related to the appointment as an Ordained Local Minister.

   (2) An Ordained Local Minister shall be entitled to a regular Pulpit Supply Fee when conducting worship other than in his or her regular appointment.

   (3) Remuneration for any other appointment, for example as a Locum or in chaplaincy which the Presbytery has approved in addition to the designated appointment, shall be at the normal rates set by the Church from time to time.

   (4) Reasonable expenses incurred wholly and necessarily in the course duties shall be reimbursed at the rates printed annually in the report of the Council to the General Assembly.

   (5) The Ministries Council shall offer to every Ordained Local Minister in a designated appointment an annual resource grant at an amount to be fixed annually by the Council and reported to the General Assembly. The grant will be available for the purchase of resources (eg. books; computer hardware or software; periodicals) to be used in the fulfilment of ministerial duties. The grant shall be awarded on the production of receipts. The Council shall be entitled to seek contributions towards such grants from the Presbytery or Presbyteries designating the Ordained Local Minister’s appointment.

26. **Transfer to the Ordained National Ministry**
   *This section was deleted by Act V 2019.*

27. **Transfer from Auxiliary Ministry to Ordained Local Ministry**
   (1) From the date on which this Act comes into force, no new applications for Auxiliary Ministry will be received by the Council.
(2) Auxiliary Ministers currently serving may make application to the Ministries Council for transfer to Ordained Local Ministry without the need for further assessment or training.

(3) Candidates currently in training for the Auxiliary Ministry shall transfer immediately to Ordained Local Ministry training.

28. Transfer from Auxiliary Ministry to Ordained National Ministry
This section was deleted by Act V 2019.

29. Transfer from Readership to Ordained Local Ministry
   (1) This section was deleted by Act V 2019.
   (2) This section was deleted by Act XII 2018.

30. Repeal
    Sections 3 – 14 of Act XIII 2003 are hereby repealed.
X. CO-OPERATION AMONG PRESBYTERIES ACT (ACT X 2012)

Edinburgh, 19 May 2012, Sess. I

The General Assembly hereby enact and ordain as follows:

1. **Definitions**
   For the purposes of this Act:
   
   (a) ‘appointing Presbytery’ is a Presbytery which has appointed a member of another Presbytery to any of its Committees, other than an excluded Committee;
   
   (b) ‘co-operating Presbytery’ is a Presbytery which, together with one or more other Presbyteries, appoints a Joint Committee; and
   
   (c) ‘Joint Committee’ is a Committee appointed by one or more co-operating Presbyteries.
   
   (d) ‘excluded Committee’ is a Presbytery Committee or Commission listed in in Act VI, 2002 (as amended), section 2.

2. **Appointment to Presbytery Committees**
   
   (1) For the purpose of enabling it to fulfil its duties better, an appointing Presbytery may appoint one or more members of one or more other Presbyteries to any of its Committees, other than an excluded Committee.
   
   (2) Any member of another Presbytery appointed in terms of section 2(a) above:
   
   (a) shall not thereby become a member of the appointing Presbytery;
   
   (b) shall, in the exercise of his or her responsibilities on the Committee of the appointing Presbytery, be deemed to be a full member of that Committee; and,
   
   (c) shall, in the exercise of his or her responsibilities on the Committee, be entitled to have his or her reasonable expenses reimbursed by the appointing Presbytery.

3. **Joint Presbytery Committees**
   
   (1) For the purpose of enabling them to fulfil their duties better, two or more co-operating Presbyteries may appoint one or more joint Committees for any purpose other than to fulfil the functions of an excluded Committee. Any of the co-operating Presbyteries may withdraw from a Joint Committee at any time.
   
   (2) A Joint Committee shall be deemed to be a Committee of each of the co-operating Presbyteries. Each of the co-operating Presbyteries shall meet the reasonable expenses of its own members appointed to a Joint Committee.
   
   (3) A Joint Committee shall have only such remit and powers as are granted to it by agreement among the co-operating Presbyteries, which remit and powers may be varied or rescinded at any time by agreement among the co-operating Presbyteries. The co-operating Presbyteries may grant only such remit and powers to a Joint Committee as may be competently granted by a Presbytery to one of its Committees.
   
   (4) A Joint Committee shall act under the supervision of and report to each of the co-operating Presbyteries in respect of matters of common interest. Otherwise, a Joint Committee shall act under the supervision of and report to a particular co-operating
Presbytery in respect of matters of interest to that Presbytery.

4. **Repeal**

Nothing in this Act shall be taken to be an amendment or qualification of either Act V, 2001 or Act VI, 2002.
XI LOCAL ECUMENICAL PARTNERSHIPS ACT (ACT XI 2012)
Edinburgh, 23 May 2012, Sess. V

Definitions
1. For the purposes of this Act, the following terms shall be deemed to have the meanings hereby assigned to them:
   (a) "LEP" shall mean a Local Ecumenical Partnership adopting a uniting constitution in the form set out from time to time approved by the General Assembly and comprising a company of persons associated together for Christian worship, fellowship, instruction, mission and service on an ecumenical basis whose names are on the Roll of Communicants and Adherents kept for the LEP and who are under the pastoral oversight of a minister or ministers appointed as herein provided and under the pastoral and temporal oversight of the Scottish Churches National Sponsoring Body for Local Ecumenical Partnerships.
   (b) "The Presbytery" shall mean the Presbytery of the bounds of the Local Ecumenical Partnership concerned.
   (c) "The participating congregation" shall mean a Charge where, prior to its constitution as such, there has been a congregation of the Church of Scotland having full status which has resolved at a Congregational meeting called for that purpose, that it shall adopt the status of, and be constituted as, a Local Ecumenical Partnership, whether in the same or a different place. There may be one or more participating congregations in an LEP.
   (d) "The participating denominations" shall mean those denominations whose congregations are involved in the LEP.
   (e) The "National Sponsoring Body for Ecumenical Partnerships in Scotland" ("NSB") shall mean the body under the auspices of Action of Churches Together in Scotland ("ACTS") which negotiates agreement between the churches on matters related to Local Ecumenical Partnerships and which instigates an agreed process of visitation and review.

Preliminary Steps
2. At the request of the congregation and having sought the guidance of the Ecumenical Officers of the denominations involved, under the auspices of the NSB, the Kirk Session of the participating congregation should seek the concurrence of the Presbytery of the Bounds. Concurrence should also be sought from the
   (a) the Ministries Council, with respect to any required re-allocation of endowments;
   (b) the Church of Scotland General Trustees;
   (c) the Council of Assembly and the Ministries Council, in the event of any question arising with regard to accumulated shortfalls to central funds, to the extent that these had been declared by the Presbytery to be unjustified.

3. Thereafter a detailed Basis and Plan of Union (appropriately adapted to fit the circumstances applicable) shall be drawn up under the guidance of a group comprising: the existing clergy, two office-bearers of each congregation, a member from the appropriate Committee of Presbytery and the equivalent in the other denomination(s) and the Ecumenical Officers of the denominations involved ("Draft Basis"). The terms of the Draft Basis shall be presented to meetings of each participating congregation and then, if thereat approved, to the Presbytery for its concurrence, declaring that no Draft Basis affecting the rights of a minister shall be presented to his or her, or any other, congregation, without his or her prior written consent. In the event that title to any heritable property belonging to the congregation is vested in Trustees other than the Church of Scotland General Trustees, the Draft Basis shall provide
for same to be transferred to and vested in the General Trustees and such transfer shall be effected prior to the constituting of the LEP.

4. There shall be transmitted thereafter by the participating congregations to the Ecumenical Relations Committee the following documents:
   (a) A copy of the Basis (“Basis”) together with extract minutes of concurrence from the participating congregations.
   (b) An extract minute of the Presbytery containing its concurrence with the Basis and Plan of Union.
   (c) An Extract Minute of the Church of Scotland General Trustees concurring with the proposals.

5. The Ecumenical Relations Committee shall thereafter decide whether to recognise the LEP. The Ecumenical Relations Committee shall thereafter report the recognition of the LEP to the General Assembly.

6. The Presbytery, following upon approval of the Basis by it and the NSB and following upon the receipt of an extract minute of the Ecumenical Relations Committee recognising the LEP shall then proceed together with the appropriate body/bodies in the other participating denomination(s) to arrange the formal execution of the Constitution at an act of public worship.

7. It is declared, for the avoidance of any doubt, that on the LEP being constituted, the legal identity of the participating congregation (notwithstanding the dissolution of the Kirk Session and the Financial Board thereof) shall be continued within the LEP, which shall, except in so far as otherwise provided for herein or in the Basis of the LEP, assume all rights and responsibilities of the participating congregation, and to which except as is otherwise provided herein shall continue to belong all property and funds belonging to, or held for, the participating congregation.

8. It is further declared that LEPs are constituted and shall operate and function in accordance with the settled law and practice of the Church, except where any provision or arrangement herein cannot be so construed and which shall accordingly be deemed an exception thereto and be interpreted as such.

**Appointment of Ministers**

9. On the occurrence of a vacancy, joint appraisal shall take place by the denominations involved with a view to the future level of ministry required. The Presbytery shall appoint representatives who, together with representatives of the other denomination(s) involved, shall review the Charge, for Church of Scotland purposes to fulfil the requirements of Act VII 2003. Where it is agreed that ministry should be supplied by the Church of Scotland the provisions of Act VIII 2003 shall apply, *mutatis mutandis*.

10. The Presbytery shall induct the Minister to the LEP having regard to the ecumenical nature of the appointment.

11. In the event of the Minister appointed being a probationer or Graduate Candidate, the Presbytery shall take the necessary steps for ordination, if required, and induction to the LEP.

12. A Church of Scotland minister shall be responsible to the Presbytery for the development of the LEP.

13. The minister of the LEP shall, upon signing the Formula, have a seat in Presbytery and shall be responsible to the Presbytery for matters of life and doctrine. Where the minister is
not from the Church of Scotland but is the sole minster in the LEP, he/she will, upon signing
the formula, have a seat in Presbytery. Where there is more than one minister appointed to
the LEP, provided one is from the Church of Scotland, all others shall be corresponding
members of Presbytery.

Financial Arrangements and Responsibilities
14. The stipend payable to the minister of a LEP shall be the stipend to which he or she would
be entitled under the prevailing stipend structures of his/her denomination.

15. The congregation will be assessed for ministry contributions and for the wider work of the
church according to the provisions of Regulations 1, 2007 or such other Regulations or other
provisions as may subsequently replace them following upon consultation with the finance
offices of the participating denominations.

Review Procedure
16. The Review Procedure shall be as approved by the denominations through the NSB and
incorporated into Act I, 2011.

17. The Charity Trustees of the LEP shall be entitled to apply to the General Trustees
requesting the sale of any redundant heritable property vested in the General Trustees and to
apply the sale proceeds towards the acquisition costs of any new buildings to which title shall
be taken in name of the General Trustees, with the balance, if any, to be held and applied by
the General Trustees as a fund for the maintenance of the properties being used by the LEP
which are vested in name of the General Trustees. Where there are funds credited for the
benefit of the participating Congregation of the LEP in the Consolidated Fabric Fund, the
Church of Scotland General Trustees shall hold these for the purposes of maintenance of
properties vested in them being used by the LEP.

18. The Charity Trustees of the LEP shall be responsible for the maintenance and insurance
of all the heritable properties of the LEP and for all other outgoings with respect thereto.

19. The Presbytery within whose bounds the LEP is situated shall, at the expense of the LEP,
commission and obtain professional reports on the condition of the ecclesiastical properties of
each LEP which are vested in the General Trustees 5 years after its constitution and thereafter
at intervals of not more than 5 years from the date of the previous report. With regard to the
buildings vested in the General Trustees, the LEP shall be bound by the terms of the Act anent
The Care of Ecclesiastical Buildings (Act XII 2007).

MODEL CONSTITUTION FOR A SINGLE CONGREGATION LOCAL ECUMENICAL
PARTNERSHIP

This Constitution was adopted on [date] [and amended on [date(s)]] and relates to the
charitable unincorporated association governed by this Constitution and known as [name].

Introduction
1. In this Constitution (including the Schedule to it) the following expressions have the
following meanings:
(a) the Act means the Charities and Trustee Investment (Scotland) Act 2005 or any statutory
re-enactment or modification thereof;
(b) the “Area of Benefit” means the area of benefit specified in paragraph 2 of the Schedule[to
be determined by the participating denominations and when the Church of Scotland is
involved shall comprise the Parish area as from time to time to be determined by the
appropriate presbytery in conjunction with the other participating denominations];

(c) “charitable purpose” means a charitable purpose under section 7 of the Act which is also regarded as a charitable purpose in relation to the application of the Taxes Acts;

(d) “the Charity” means the charity constituted by this Constitution;

(e) “Congregational Meeting” means a meeting of the Members;

(f) “Co-opted Trustees” means Trustees appointed by the Trustees under clause [21c];

(g) “Elected Trustees” means Trustees elected under clause [21(b)];

(h) “The LEP” means the Local Ecumenical Partnership specified in paragraph 1 of the Schedule;

(i) “the Members” means the members of the Charity;

(j) OSCR means the Office of the Scottish Charity Regulator as established by section 1 of the Act;

(k) “the Participating Churches” means the Churches specified in paragraph 4 of the Schedule;

(l) “the Participating Denominations” means the denominations specified in paragraph 3 of the Schedule;

(m) “the Schedule” means the Schedule to this Constitution;

(n) “the Sponsoring Body” means the Scottish Churches National Sponsoring Body for Ecumenical Partnerships in Scotland as established by the Participating Denominations and others for the oversight of LEPs;

(o) “the Trustees” means the body of trustees constituted by clause [21] of this Constitution (who are the charity trustees of the Charity for the purposes of the Act).

Purpose of the Charity

2. The purpose of the Charity is to advance the Christian faith in accordance with the principles and practices of the Participating Denominations.

3. In achieving its purpose, the Charity will engage in a range of activities, either on its own or with others, including (but not restricted to):

(a) the celebration of public worship;

(b) the teaching of the Christian faith;

(c) mission and evangelism;

(d) pastoral work, including visiting the sick and the bereaved;

(e) the provision of facilities with a Christian ethos for the local community, including (but not restricted to) the elderly, the young and other groups with special needs; and

(f) the support of other charities in the UK and overseas.

Membership of the Charity

4. The duly authorised ministers for the time being of the LEP (whether ordained or lay) are Members by virtue of their office.

5. Other persons shall be entitled to membership of the Charity if entitled to membership in accordance with the provisions of the Schedule.

6. The Trustees must keep a register of Members. The register must record the name, address and any denominational affiliation within the LEP of each Member.

51 In most cases this would only occur where a trustee has resigned etc and are for the purpose of filling a vacancy which arises between AGMs; such appointments need to be regularised at the next annual meeting. Most denominations do not have co-opted trustees in any other circumstances.
7. Membership of the Charity shall be terminated if the Member concerned:
   (a) gives written notice of his or her resignation to the Trustees;
   (b) ceases to be entitled to membership of the LEP (including as a result of any disciplinary
       procedure conducted by one or more of the Participating Denominations conducted in
       accordance with paragraph 12 of the Schedule); or
   (c) dies.

8. Membership of the Charity is personal and not transferable.

Congregational meetings
9. There shall be the following kinds of Congregational Meeting of the Charity:
   (a) Annual Congregational Meetings;
   (b) Ordinary Congregational Meetings;
   (c) Special Congregational Meetings;

10. Congregational Meetings shall be convened by or on behalf of the Trustees, either:
    (a) by giving verbal notice at each service of public worship held in the LEP on the two
        Sundays (or, in the case of a Special Congregational meeting, the three Sundays)
        immediately preceding the date of the Congregational Meeting; or
    (b) by giving 14 days’ (or, in the case of a Special Congregational Meeting, 21 days’) notice
        in writing or electronically sent to the addresses recorded for the Members in the register
        of Members;

11. An Annual Congregational Meeting must be held within 12 months of the adoption of this
    Constitution and once in every subsequent calendar year.

12. The business of an Annual Congregational Meeting is to:
    (a) receive the report of the Trustees on the Charity’s activities since the previous Annual
        Congregational Meeting;
    (b) elect Trustees from among the Members by processes that are clear and open and
        consistent with the practices of the Participating Denominations;
    (c) receive the accounts of the Charity for the previous financial year;
    (d) appoint an auditor or independent examiner for the Charity; and
    (e) consider any other business put before it by the Trustees.

13. [An Ordinary Congregational Meeting shall be convened on not less than three occasions
    in each calendar year.]

14. [The business of an Ordinary Congregational Meeting is to:
    (a) review the life and witness of the LEP;
    (b) consider topics relevant to the local and wider witness of the LEP;
    (c) receive reports covering all aspects of the life of the LEP;
    (d) consider matters brought to it by the Trustees, so as to offer advice or guidance (to which
        the Trustees must have regard), and to indicate support as required;
    (e) help to shape the life, work and vision of the LEP.]

15. A Special Congregational Meeting may be called at any time by the Trustees and must be
    called by them within 21 days after receiving a written request from at least one-tenth of the

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[Clauses 9b, 13 and 14 should be included when at least one participating Church requires ordinary congregational
meetings to be held; in other cases they are optional.]
Members for the time being.

16. In the case of a Special Congregational Meeting the notice of the meeting must include an indication of the business to be transacted.

17. The business of a Special Congregational Meeting shall comprise that referred to in the notice convening it and no other.

18. No business shall be conducted at any Congregational Meeting unless at least [number], or [one-third] of the number of Members for the time being (if greater), are present. The chair of the Trustees or (if the chair is unable or unwilling to do so) some other Member elected by those present shall preside at any Congregational Meeting.

19. Except as otherwise provided in this Constitution, every issue at a Congregational Meeting shall be determined by a simple majority of votes cast by the Members present and voting.

20. Except for the chair of the meeting, who in the case of an equality of votes has a casting vote only, every Member present in person at any Congregational Meeting is entitled to one vote on every issue.

**Trustees**

21. The Charity shall be administered and managed by a body of trustees consisting of:
   (a) *ex officio* Trustees, being the ministers of the LEP for the time being;
   (b) [insert] Elected Trustees elected at the Annual Congregational Meeting; and
   (c) Co-opted Trustees appointed by the Trustees.\(^8\)

22. The first Elected Trustees shall be elected at the meeting at which this Constitution is adopted.

23. Elected Trustees shall hold office from the end of the Annual Congregational Meeting at which they are elected until the end of the third such meeting after their appointment, but shall be eligible for re-election at that meeting.

24. No person may be elected as an Elected Trustee or appointed as a Co-opted Trustee unless he or she:
   (a) is a Member;
   (b) is aged 18 or above;\(^9\)
   (c) is not disqualified from acting as a Trustee by virtue of section 69 of the Act (or any statutory re-enactment or modification of that provision); and
   (d) has indicated his or her willingness to serve as a Trustee.

25. Co-opted Trustees serve until the end of the next Annual Congregational Meeting following their appointment.

26. A Trustee shall cease to hold office if he or she:
   (a) is disqualified from acting as a Trustee by virtue of section 69 of the Act (or any statutory re-enactment or modification of that provision);
   (b) ceases to be a Member;

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\(^7\) The specific quorum requirement should be determined in the particular circumstances of the LEP.

\(^8\) Insert the circumstances in which trustees may be co-opted.

\(^9\) May be reduced to 16 at the discretion of the LEP.
(c) dies or becomes incapable by reason of mental disorder, illness or injury of managing and administering his or her own affairs;
(d) resigns as trustee by notice to the Trustees (but only if at least two Trustees will remain in office when the notice of resignation takes effect); or
(e) is absent without the permission of the Trustees from all their meetings held within a period of twelve consecutive months and the Trustees resolve that his or her office be vacated.

**Proceedings of the Trustees**
27. The Trustees may regulate their proceedings as they think fit, subject to the provisions of this constitution.

28. The Trustees must hold at least two meetings in each calendar year.

29. At their first meeting after an Annual Congregational Meeting the Trustees shall elect the following officers from amongst their number:
   (a) a chair. The Minister of the LEP will normally be Chair.\(^{10}\)
   (b) a secretary; and
   (c) a treasurer.

30. Any two Trustees may request a meeting of the Trustees and the secretary must convene a meeting of the Trustees if requested to do so by any two Trustees.

31. Questions arising at a meeting must be decided by a majority of votes.

32. The person who chairs the meeting shall have a casting vote only.

33. No decision may be made by a meeting of the Trustees unless a quorum is present at the time the decision is purported to be made.

34. The quorum shall be either:
   (a) two or the number nearest to one third of the total number of Trustees, whichever is the greater; or
   (b) such larger number as may be decided from time to time by the Trustees.

35. A Trustee shall not be counted in the quorum present when any decision is made about a matter upon which that Trustee is not entitled to vote.

36. If the number of Trustees is less than the number fixed as the quorum, the continuing Trustees or Trustee may act for the purpose of filling vacancies or of calling a Congregational Meeting but for no other purpose.

37. The minister or the person elected as the chair (as appropriate) shall chair meetings of the Trustees.

38. If the chair is unwilling to be present at two consecutive trustee meetings then the matter should be referred to the Participating Denominations as it reflects a serious situation.

39. The person appointed to chair meetings of the Trustees shall have the functions or powers

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\(^{10}\) This will be the Minister recognised by each of the participating denominations at the time the LEP is set up. In situations where the participating denominations allow for someone other than a minister to chair the meeting, the chair need not be a minister.
conferred by this Constitution, or delegated to him or her in writing by the Trustees.

40. The Trustees may delegate any of their powers or functions to a committee of two or more persons, all or a majority of whom shall be Trustees, subject to such conditions (if any) as they think fit. All acts and proceedings of any such committee must be reported promptly to the Trustees.

41. The Trustees must keep minutes of all:
(a) appointments of officers, employees and Co-opted Trustees made by the Trustees;
(b) proceedings at Congregational Meetings; and
(c) meetings of the Trustees and committees of the Trustees, including:
   (i) the names of the Trustees or committee members present at the meeting;
   (ii) the decisions made at the meeting; and
   (iii) where appropriate, the reasons for the decisions.

Accounting and reporting
42. The Trustees must comply with their obligations under charity law with regard to:
(a) the keeping of accounting records for the Charity;
(b) the preparation of annual statements of account for the Charity including a report by the Trustees on its activities;
(c) the transmission of the statements of account and the Trustees’ report to the members of the Charity; and
(d) the preparation of an Annual Return and its submission with the annual statements of account and the Trustees’ report to OSCR.

Powers of Trustees
43. In order to further the purpose of the Charity the Trustees may:
(a) raise funds, provided that in doing so the Trustees must not undertake any substantial permanent trading activity and must comply with any relevant statutory regulations;
(b) apply for and accept grants and provide security in respect of obligations under grant agreements;
(c) buy, take on lease or in exchange, hire or otherwise acquire any property and maintain and equip it for use;
(d) where the Charity owns property, sell, lease or otherwise dispose of all or any part of the property, subject to such consents as are required by law;
(e) borrow money and charge the whole or any part of the property belonging to the Charity as security for repayment of the money borrowed, subject to such consents as are required by law;
(f) co-operate with other charities, voluntary bodies and statutory authorities and exchange information and advice with them;
(g) establish or support any charitable trusts, associations or institutions formed for any purpose connected with the purpose of the Charity;
(h) acquire, or enter into any partnership or joint venture arrangement with any other charity formed for any purpose connected with the purpose of the Charity;
(i) set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves;
(j) obtain and pay for such goods and services as are necessary for carrying out the work of the Charity;
(k) open and operate such bank and other accounts as the Trustees consider necessary and invest funds and delegate the management of funds in accordance with the provisions of the Act;
(l) employ such staff as are considered appropriate for the proper conduct of the Charity’s activities, and to make reasonable provision for the payment of pension and/or other benefits for members of staff, ex-members of staff and their dependants;
(m) effect insurance of all kinds (which may include trustees’/officers’ liability insurance); and
(n) do all such other lawful things as may be incidental or conducive for the achievement of the purposes of the Charity.

Application of funds
44. The Trustees shall pay out of the income and property of the Charity all the proper costs and expenses of administering the Charity.

45. For the avoidance of doubt, none of the Charity’s assets may be distributed or otherwise applied (on being wound up or at any other time) except to further its charitable purposes.

Trustee benefits
46. No Trustee or any person connected with a Trustee may receive from the Charity any payment of money or other material benefit (whether direct or indirect) except by way of:
(a) reasonable remuneration or stipend paid to any Trustee who is a minister of the LEP;
(b) reimbursement of reasonable out of pocket expenses (including hotel and travel costs) actually incurred in the administration of the Charity;
(c) interest at a reasonable rate on money lent to the Charity;
(d) a reasonable rent or hiring fee for property let or hired to the Charity;
(e) an indemnity in respect of any liabilities properly incurred in or about the administration of the Charity (including the costs of a successful defence to criminal proceedings);
(f) benefits received by the Trustee as a Member where such benefits are no different in nature or extent from those received by other Members; and
(g) payment for employment or services authorised under clause 49.

In all circumstances the provisions of the Act shall be complied with.

47. The Trustees may employ, or engage under a contract for services, such of their number or any person connected to a Trustee as they may determine provided that:
(a) the procedure set out in clause 49 is followed;
(b) the Trustees are satisfied that it is in the interests of the Charity to employ or engage under a contract for services (as the case may be) the Trustee or connected person concerned;
(c) the Trustees are satisfied that the terms of employment or engagement are reasonable and will be subject to regular and objective review; and
(d) at no time may a majority of Trustees benefit directly or indirectly from payments made under this clause.

48. Whenever a Trustee or a person connected to a Trustee has a personal interest in a matter to be discussed at a meeting of the Trustees or any committee, the Trustee or connected person concerned must:
(a) declare an interest before discussion on the matter begins;
(b) withdraw from the meeting for that item unless expressly invited by the chair to remain solely in order to provide information;
(c) not be counted in the quorum during that part of the meeting; and
(d) withdraw during the vote and have no vote on the matter.

49. For the purpose of clauses 46 to 48 a person is connected with a Trustee if considered to be “connected” in terms of the provisions of the Act.
**Investment**

50. Funds which are not required for immediate use must be placed on deposit or invested.

51. Investments and other property of the Charity may be held:
   (a) in the names of the Trustees;
   (b) in the name of a nominee (being a corporate body registered or having an established place of business in the United Kingdom) under the control of the Trustees or of a financial expert acting on their instructions; or
   (c) in the name of a trust corporation as a holding trustee for the Charity which must be appointed (and may be removed) by deed executed by the Trustees.

**Amendment of Constitution**

52. This Constitution (including the Schedule) may be amended at either an Annual or a Special Congregational Meeting provided that:
   (a) no amendment may be made to this clause that would have the effect of making the Charity cease to be a charity at law;
   (b) clauses 2 may not be amended without the prior written consent of OSCR;
   (c) members are given 21 days’ notice and resolve by not less than two-thirds majority of the Members present and voting; and
   (d) the resolution receives the approval of the Sponsoring Body and of the appropriate authority of each of the Participating Denominations.

53. A copy of any resolution amending this Constitution must be sent to OSCR as required by the Act.

**Dissolution of Charity**

54. The Charity may be dissolved:
   (a) by a decision of the appropriate authorities of each of the Participating Denominations; or
   (b) by the Members with the approval of the appropriate authority of each of the Participating Denominations, coordinated by the Sponsoring Body.

55. If the Participating Denominations or the Members resolve to dissolve the Charity the Trustees will remain in office as charity trustees and be responsible for winding up the affairs of the Charity in accordance with the provisions of this Constitution.

56. The Trustees must collect in all the assets of the Charity and must pay or make provision for all the liabilities of the Charity.

57. The Trustees must apply any remaining assets in a manner agreed by the Participating Denominations either:
   (a) directly for the purpose of the Charity in a manner approved by the Participating Denominations; or
   (b) by transfer to the Participating Denominations equally or on some other equitable basis, to be used for charitable purposes only. If agreement cannot be reached by the Participating Denominations on the basis of division the matter shall be determined by an arbiter appointed by the Dean of the Faculty of Advocates whose findings shall be accepted as final; or
   (c) in such other manner as OSCR may approve in writing in advance.

58. In no circumstances shall the net assets of the Charity be paid to or distributed among the members of the Charity.
59. The Trustees must notify OSCR promptly that the Charity has been dissolved. If the Trustees are obliged to send the Charity’s accounts to OSCR for the accounting period which ended before its dissolution, they must send OSCR the Charity’s final accounts.

**SCHEDULE**

**The LEP**
1. The Charity:
   (a) gives effect to the local ecumenical partnership [*insert name…*] approved for the Area of Benefit by the Participating Churches;
   (b) comprises the Participating Churches; and
   (c) looks to the Sponsoring Body for support, encouragement and advice.

**The Area of Benefit**
2. The Area of Benefit [to be determined by the participating denominations and when the Church of Scotland is involved shall comprise the Parish area as from time to time to be determined by the appropriate presbytery in conjunction with the other participating denominations].

**The Participating Churches**
3. The Participating Denominations are:
   (a) [*name*];
   (b) [*name*]; and
   (c) [*name*].

4. The Participating Churches (which have originated the LEP) are:
   (a) [*name*];
   (b) [*name*]; and
   (c) [*name*].

5. The Appropriate Authority for each Participating Denomination is [to be completed in the context of the LEP in question.]

**Christian Initiation and Belonging**
6. Baptism shall be administered according to the rite and/or practice of any of the Participating Denominations, or according to a rite approved by the Participating Denominations and shall be set, in normal circumstances, within an act of congregational worship. A register of baptisms shall be kept.

7. Those received into membership of the LEP by confirmation according to the practices of the Participating Denominations\(^\text{11}\) shall become members of all the Participating Denominations, as well as members of the LEP.

8. Those received into membership of the LEP by transfer and extension of membership in consequence become members of all the Participating Denominations which have received them, as well as members of the LEP.\(^\text{12}\)

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\(^{11}\) This section will need to be considered for the LEP in question in the light of the practice of the each Participating Denomination, including *eg.* possibility of admission to Membership by resolution of Kirk Session.

\(^{12}\) Membership discipline should be agreed in the context of the particular LEP in question in the light of the procedures of the Participating Denominations.
Worship
9. The LEP shall respect the faith and practice of each of the Participating Denominations. Worship shall safeguard and present the doctrines, practices, traditions and developing traditions of each of the Participating Denominations and be conducted in accordance with denominational practices. A balanced and varied pattern of worship shall be aimed for in order to maximise the riches of each tradition and to enable the congregation to explore and express its ecumenical life and aspiration, while at the same time ensuring that worship is accessible and sustaining for all its members. [Ordained priests, ministers or other duly authorised persons shall preside at the Sacrament of Communion as permitted by the rules of the relevant Participating Denomination].

10. All those recognised as communicants by the Participating Denominations may receive the sacrament.

Ministry
11. Authorised ministry within the LEP shall be provided by ministers (whether clergy or lay) duly appointed by the Participating Denominations.13

12. [There shall normally be a practice of alternating ministry between the Participating Denominations.] [Where appropriate, state denomination(s) of ministers.]

13. Newly appointed ministers shall be inducted/welcomed at a service at which they, other members of the ministry team, the LEP and representatives of the Sponsoring Body reaffirm the Ecumenical Vision Statement.

14. All ministers serving the LEP or be offered appropriate status as is permissible within all the Participating Denominations.14

15. Remuneration of Ministers shall be in accordance with the practices of his or her appointing Participating Denomination.

Relationship with the Participating Denominations15
16. The LEP shall maintain a proper relationship to the appropriate local and regional bodies of the Participating Denominations fulfilling necessary constitutional requirements. These bodies are [here state the appropriate denominational bodies.]

17. To that end, meetings of the members of the LEP affiliated to a particular Participating Denomination (as opposed to meetings of the members of the LEP) may be held in order to meet the constitutional requirements of the Participating Denomination concerned.

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13 The procedures of the relevant Participating Denominations shall be followed in the appointment/call of ministers. Recognising, however, the importance of continuity, the LEP expects that those responsible for the appointment/call of ministers shall select persons who will respect and develop the ecumenical character of the LEP. [To that end, when it is expected that a minister or member of the ministry team serving the LEP may leave, or before any major changes in the responsibility of the minister presently in post are considered, or if additions to the ministry team are being contemplated, the agreed procedure of the Sponsoring Body shall be followed.]

14 This application of this section should be explored and finalised in the context of the LEP in question.

15 The Trustees shall be the equivalent of:
   a) [the Elders’ Meeting in the case of the United Reformed Church];
   b) [the Kirk Session operating in terms of the Unitary Constitution thereof in the case of the Church of Scotland];
   c) [the Deacons’ Meeting in the case of a Baptist Church]; [and]
   d) [the Methodist Church Council (according to Standing Order 611 of the Methodist Church)].

This section would require to be explored and finalised in the context of the LEP in question.
Buildings
18. The premises of the LEP comprise [insert description of the premises] and in so far as are not owned by the Charity are owned as indicated:

Ongoing development
19. Other churches in or near the Parish may seek participation in the LEP at any time, subject to the agreement of the appropriate authorities of the Participating Denominations and the coordination of the Sponsoring Body.

20. The LEP looks to the Sponsoring Body to review its work and witness every five years, or sooner, with reference to its purpose set out in the Ecumenical Vision Statement\textsuperscript{16} annexed to this Constitution.

\textsuperscript{16} Alter as necessary for the LEP in question.
PART 1: GENERAL

1. Definitions & Interpretation

In this Act:

“appeal” includes “dissent and complaint” and a petition as referred to in section 4(2)(iii) of this Act, unless otherwise provided, and “Appellant” includes “complainer”;
“Appeals Committee” means the committee established from time to time from the members of the Commission of Assembly in accordance with Part 2 of this Act;
“Clerks of Assembly” means the Principal Clerk and the Depute Clerk;
“Commission” means the Appeals Committee of the Commission of Assembly or the Judicial Commission, as appropriate in the context;
“Commission of Assembly” means the Commission of Assembly which was established in terms of the Commission of Assembly Act (Act VI 1997);
“Court” does not include the General Assembly nor the Commission of Assembly but shall include any other body, including a Presbyterial Commission, against whose decision an appeal is being taken;
“Discipline Tribunal” means a Discipline Tribunal constituted under the provisions of the Discipline Act (Act I 2019).
“Judicial Commission” means the Judicial Commission which is re-established in terms of this Act;
“Jurisdiction Committee” means a committee of three persons consisting of (i) a Convener or Vice-Convener of the Appeals Committee of the Commission of Assembly, (ii) a Convener or Vice-Convener of the Judicial Commission, and (iii) the Procurator;
“Personal Case” means a case which involves the consideration of allegations against an individual which, if established, could adversely affect that individual's holding of an office in the Church or otherwise lower him or her in the estimation of other members of the Church;
“Parties” means the Appellant and the Respondent (as later defined) and “Party” means either one of them;
“Schedule” means the schedule of 2 parts attached to this Act.

2. Right to appeal from decisions

(1) As from the date of this Act, and subject to the exclusions and qualifications in sections 2(3) and 2(4) below, a person with a legitimate interest who is aggrieved by a decision of a Court (“the Appellant”) may within fourteen days of the decision intimate an appeal against that decision.
(2) Such an appeal shall be intimated in accordance with the Rules of Procedure set out in Schedule 2 to this Act.
(3) Such an appeal may be taken only upon one or more of the following legal grounds: (a) an error in Church law; (b) breach of the principles of natural justice or material irregularity of
process; (c) decision influenced by incorrect material fact; and (d) the severity of any sanction imposed.

(4) The right of appeal conferred in section 2(1) does not apply where the Acts and Regulations of the General Assembly specifically provide another appeal procedure.

(5) The Court against whose decision an appeal is being taken under this Act shall have power, on its own initiative or on the application of an interested person, to regulate matters relating to the decision, including giving interim effect to the decision, pending the determination of the appeal.

3. Establishment of the Appeals Committee of the Commission of Assembly and the Judicial Commission

(1) The Appeals Committee of the Commission of Assembly is hereby established and the Judicial Commission is hereby re-established and both are authorised, to act for and on behalf of the General Assembly in the hearing of certain appeals, and adjudicating finally on such appeals, all as specified in this Act.

(2) For this purpose the General Assembly delegate to the said Commissions all powers necessary to act in such cases as if the General Assembly themselves were acting, including inter alia power, where necessary, to require the attendance of witnesses, to examine witnesses on oath or affirmation, and to call for the production of all documents and productions connected with or relevant to the appeal.

(3) It is declared that this delegation of all powers to act and to adjudicate finally is in accordance with the Articles Declaratory of the Constitution of the Church of Scotland in Matters Spiritual, as interpreted by the Church in this Act.

(4) Nothing in this Act shall affect the ongoing establishment of the Commission of Assembly in terms of Act VI 1997 and in particular the right of the Commission of Assembly to exercise its powers in terms of section 5(1) of that Act, provided always that in relation to cases and appeals, the whole provisions of this Act, which have the effect of constituting an Appeals Committee of the Commission of Assembly to hear such cases and appeals, shall prevail.

4. Jurisdiction of the Appeals Committee of the Commission of Assembly and the Judicial Commission

(1) As from the date of this Act, sittings of the Appeals Committee of the Commission of Assembly and of the Judicial Commission shall be arranged to hear cases as set out in this section.

(2) The Appeals Committee of the Commission of Assembly shall hear the following cases:

(i) all appeals, apart from those delegated to the Judicial Commission in accordance with section 4(3) below or to the Ministries Appeal Panel in accordance with Act VI 2007;

(ii) all appeals (or requests for determination) in terms of the Appraisal and Adjustment Act (Act VII 2003);

(iii) all petitions which seek review of judgements of Presbyteries on the grounds that the Petitioners could not have come by appeal or have been obstructed in so doing by the Presbytery concerned, apart from those delegated to the Judicial Commission in accordance with section 4(3) below or to the Ministries Appeal Panel in accordance with Act VI 2007; and

(iv) all other appeals except for those mentioned in sub-sections (i), (ii) and (iii) above. For the avoidance of any doubt, the Appeals Committee of the Commission of Assembly shall not hear any appeal in a Personal Case.

(3) The Judicial Commission shall hear the following cases:
(i) Appeals under the Discipline of Ministry Act (Act III 2001), the Protection against Bullying Act (Act IV 2007), the Protection against Discrimination Act (Act V 2007), the Discipline of Elders, Readers and Office-Bearers Act (Act I 2010) and the Discipline Act (Act I 2019), being appeals against the decisions of the Presbyterial Commission and of Discipline Tribunals in discipline cases, except in matters of doctrine;

(ii) Appeals in all cases arising under the Congregations in an Unsatisfactory State Act (Act I 1988); and

(iii) Appeals in Personal Cases.

For the avoidance of doubt, the Judicial Commission shall not hear appeals to the Ministries Appeal Panel in accordance with Act VI 2007.

(4) If there is (i) any uncertainty or dispute as to which Commission shall hear a case or appeal, or (ii) any dispute as to whether a case or appeal to be heard before the Commission of Assembly is one which should be referred to its Appeals Committee or to the full Commission of Assembly, the Principal Clerk shall refer the matter to the Jurisdiction Committee and that Committee shall decide, in alternative (i), by which Commission the case or appeal shall be heard, and in alternative (ii), whether the case or appeal should be referred to the Appeals Committee or to the full Commission of Assembly, its decision in all such matters being final.

(5) Save for the provisions of this section, nothing in this Act affects the terms of the Ministries Appeal Panel Act (Act VI 2007).

(6) All cases in which an appeal was intimated to and received by the Principal Clerk prior to the date of this Act coming into force shall continue to be dealt with in accordance with the terms of the Commission of Assembly Act (Act VI 1997) or the Judicial Commission Act (Act II 1988), as appropriate.

(7) Decisions of the Appeals Committee of the Commission of Assembly and of the Judicial Commission shall be final and there shall be no appeal from a decision of either the Appeals Committee of the Commission of Assembly or the Judicial Commission.

5. Reference to General Assembly

It is declared that the General Assembly themselves shall not hear or dispose of any appeals save for appeals in matters of doctrine as referred to in section 4(3)(i) nor shall the decisions of the Appeals Committee of the Commission of Assembly or the Judicial Commission be subject to review by the General Assembly; provided that any case or appeal in which, in the opinion of the relevant Commission, an important issue of principle is at stake may be referred by that Commission to the General Assembly.

6. Rules of Procedure

All appeals intimated under this Act shall follow the rules of procedure set out in Schedule 2.

PART 2: THE COMMISSION OF ASSEMBLY AND THE APPEALS COMMITTEE OF THE COMMISSION OF ASSEMBLY

7. Appointment of Commissioners for the Commission of Assembly

(1) At their closing session each year, the General Assembly shall appoint Commissioners for the Commission of Assembly comprising the following persons:

(i) one tenth of the ministers and elders commissioned by Presbyteries to the General Assembly in that year, such Commissioners to be designated by the appointing Presbyteries in accordance with the rules set out in Schedule 1 to this Act; and
(ii) one in ten or part of ten of the members of the Diaconate commissioned by Presbyteries to the General Assembly in that year, such members to be selected at random by the Clerks of Assembly.
(2) From the Commissioners appointed to the Commission of Assembly there shall be selected the members to serve on the Appeals Committee of the Commission of Assembly, in terms of section 8 below.
(3) Act VI 1997 shall from the date of this Act be amended so that the Commissioners appointed to the Commission of Assembly shall be appointed in accordance with the provisions of this section 7 and Schedule 1 to this Act.

8. Constitution of the Appeals Committee of the Commission of Assembly
(1) Throughout the year following each General Assembly, in order that cases or appeals falling within its jurisdiction may be heard, an Appeals Committee of the Commission of Assembly shall be constituted as required. Whenever a sitting of the Appeals Committee of the Commission of Assembly is required, the Clerks of Assembly shall select the following persons from the Commissioners appointed in accordance with section 7, to be members of that Appeals Committee:

(i) Subject to the provisions of section 23(1), ten ministers, ten elders and one deacon, all selected at random from the Commissioners appointed to the Commission of Assembly; and
(ii) A Convener and a Vice-Convener, from those appointed under section 9 below.

(2) In addition, the following members ex officis of the General Assembly in that year, shall hold the same offices in the Appeals Committee of the Commission of Assembly as they did in the General Assembly: the Clerks of Assembly, the Procurator and the Law Agent.

9. Convener and Vice-Convener of the Appeals Committee of the Commission of Assembly
(1) The General Assembly, on the nomination of the Nomination Committee, and in accordance with the Standing Orders of the General Assembly, shall appoint a Convener and a Vice-Convener of the Appeals Committee of the Commission of Assembly and an alternate Convener and Vice-Convener, all of whom shall be qualified to practise as lawyers or shall be persons experienced in the law and practice of the Church.
(2) Subject to section 9(3) below, each sitting of the Appeals Committee of the Commission of Assembly shall be moderated by either a Convener or a Vice-Convener so appointed.
(3) In the event that (i) neither the Convener nor the Vice-Convener nor their alternates is able to attend a sitting of the Appeals Committee of the Commission of Assembly, or (ii) both the Convener and Vice-Convener disqualify themselves from the hearing of a particular appeal, the Appeals Committee of the Commission of Assembly may choose their own convener from their own number to moderate that sitting (or the hearing of a particular appeal within that sitting, as the case may be), provided always that the same person shall continue to act as convener throughout the hearing of any given appeal. Any such person chosen to act as convener shall either be a person qualified to practise as a lawyer or shall be a person experienced in the law and practice of the Church.
(4) The person who moderates a sitting (or hearing) of the Appeals Committee of the Commission of Assembly shall have a casting vote.

10. Quorum
The quorum of the Appeals Committee of the Commission of Assembly shall be fifteen persons.

11. **Sittings**

Sittings of the Appeals Committee of the Commission of Assembly shall be arranged as follows:

(a) Sittings shall take place as required, during the months of June, August, October, December, February and April.

(b) Sittings shall be called by the Principal Clerk.

12. **Report to the General Assembly**

The Minutes of all sittings of the Appeals Committee of the Commission of Assembly shall be submitted to the General Assembly in the Volume of Reports, or in the Order of Proceedings, or in the Daily Papers, and laid on the table, without discussion, provided that the General Assembly may consider and deal with any allegation that the Appeals Committee of the Commission of Assembly has acted in excess of the powers conferred by this Act.

13. **Relation to Legislation**

(1) The Appeals Committee of the Commission of Assembly shall act in accordance with the Constitution of the Church and the Acts of the General Assembly and nothing in this Act shall be construed as conferring power to contravene or amend existing legislation, or to legislate.

(2) The Appeals Committee of the Commission of Assembly shall not have power to review any decision of the General Assembly, except for a decision made under the Appraisal and Adjustment Act (Act VII 2003) where the Appeals Committee of the Commission of Assembly is satisfied that the relevant circumstances have significantly changed.

(3) The Appeals Committee of the Commission of Assembly shall be accountable to the General Assembly, which may quash any decision made by the Appeals Committee of the Commission of Assembly which exceeds the powers conferred by this Act.

**PART 3: THE JUDICIAL COMMISSION**

14. **Appointment of members of the Judicial Panel**

(1) There shall be a pool of persons, known as the Judicial Panel, from which there shall be drawn the persons to serve on the Discipline Tribunal and the Judicial Commission. Members of the pool may also serve as Reviewers under the Discipline Act (Act I 2019).

(2) The Judicial Panel shall comprise twenty people being ministers, elders and deacons nominated by the Nomination Committee and appointed by the General Assembly. All members of the Judicial Panel shall be qualified to practise as lawyers or shall be experienced in the law and practice of the Church.

(3) The members of the Judicial Panel shall initially be appointed for a term of four years, and shall be eligible for reappointment for further terms of four years.

(4) In the event of a member of the Judicial Panel approaching the end of their current term of appointment and not wishing to be reappointed but being then engaged in the hearing of a case or an appeal, he or she shall continue in office, but only until the Discipline Tribunal or the Judicial Commission has recorded its decision in the case or appeal in question, as the case may be.

(5) The Procurator of the Church shall not be eligible for inclusion in the Judicial Panel but may be requested to attend a sitting of the Judicial Commission if it is so determined at the Appeal Management Hearing referred to in Schedule 2.
15. **Constitution of the Judicial Commission**
Whenever a sitting of the Judicial Commission is required, the Clerks of Assembly shall select the following persons:

(i) Subject to the provisions of section 23(1) three persons, including at least one minister or deacon and one elder, all selected at random from the Judicial Panel; and
(ii) A Convener and a Vice-Convener, from those appointed under section 16 below.

No person who has been selected for the Discipline Tribunal for a particular matter shall thereafter be selected for the Judicial Commission for the same matter.

16. **Conveners & Vice-Conveners of the Discipline Tribunal and the Judicial Commission**
(1) The General Assembly, on the nomination of the Nomination Committee, and in accordance with the Standing Orders of the General Assembly, shall appoint up to twelve persons to be Conveners and/or Vice-Conveners of the Discipline Tribunal and the Judicial Commission, all of whom shall be qualified to practise as lawyers or shall be persons experienced in the law and practice of the Church.
(2) Each sitting of the Discipline Tribunal shall be chaired by a Convener so appointed, or by a Vice-Convener so appointed when one is required according to the Discipline Act (Act 1 2019).
(3) Each sitting of the Judicial Commission shall be chaired by either a Convener or a Vice-Convener so appointed.
(4) The person who chairs a sitting (or hearing) of the Discipline Tribunal or Judicial Commission shall have a casting vote.

17. **Quorum**
The quorum of the Judicial Commission shall be three persons.

18. **Sittings**
Sittings of the Judicial Commission shall be called by the Principal Clerk.

19. **Report to the General Assembly**
A Minute of proceedings of the Judicial Commission shall be incorporated in a written report to the General Assembly, but shall not be subject to review by the General Assembly.

20. **Relation to Legislation**
The Judicial Commission shall act in accordance with the Constitution of the Church and the Acts of the General Assembly and nothing in this Act shall be construed as conferring power to contravene or amend existing legislation, or to legislate.

**PART 4: PROVISIONS APPLICABLE TO BOTH COMMISSIONS**

21. **Clerks**
(1) The Clerks of Assembly shall act as Clerks to the Commissions, but the duties may be carried out by one of them.
(2) If neither of them is present at a sitting, the Commission shall appoint a substitute, whether or not a member of that sitting of the Commission, to act as Clerk of the Commission during that sitting, and the oath *de fide* shall be administered to him or her and recorded.
22. **Priority of meetings**

(1) When a sitting of a Commission coincides with an ordinary meeting of a Presbytery or Kirk Session of which any member attending a Commission is a member, such Presbytery or Kirk Session has permission to meet, but the priority for such member is to attend the Commission in question, and the Presbytery or Kirk Session shall not in the absence of such member transact any business which might be prejudicial to his or her interests.

(2) Decisions of the Commissions shall be complied with as if they were decisions of the General Assembly.

23. **Other provisions as to membership of Commissions**

(1) No member of any Court whose decision is under appeal, nor any person who has taken part in the cause at any stage, nor any person with an interest in the outcome of the cause, shall act as a member of a Commission when an appeal in such a cause is being heard.

(2) No member of a Commission who has not been present during the whole proceedings in the appeal shall vote or take any part in the decision of the Commission in question or be consulted for the purposes of production of written reasons for the decision.

**PART 5: GENERAL**

24. **Intimation of decisions**

Save where a decision is of an administrative non-controversial nature and was made without a vote requiring to be taken, intimation of all decisions of courts of the Church in relation to which there is a right to appeal shall be made to all parties having a legitimate interest with regard to the decision by sending to them forthwith (1) a copy of the decision (2) an extract minute in respect of the decision and (3) a copy of the section or sections of the relevant legislation in terms of which an appeal may be intimated.

25. **Amendments**

The Discipline of Ministry Act (Act III 2001) is amended as follows:

_delete sections 19 (1) to (6) and substitute the following as section 19(1); also consequentially renumber section 19 (7) as section 19 (2):

“If either the Special Committee of Presbytery or the Respondent is dissatisfied with any decision of the Presbyterial Commission, they may appeal to the Judicial Commission in terms of the Appeals Act 2013. No right of appeal or dissent-and-complaint shall be allowed in respect of any act or decision done or taken in terms of this Act, otherwise than in accordance with the provisions of this Act or the Appeals Act 2013.”

26. **Repeal and Amendment**

(1) The Judicial Commission Act (Act II 1988) is hereby repealed but where an appeal in a case to be heard by the Judicial Commission was intimated to and received by the Principal Clerk before the date of this Act, such proceedings shall continue until final disposal in accordance with the law in force immediately before the date of this Act.
(2) The Commission of Assembly Act (Act VI 1997) is from the date of this Act to be interpreted so as to apply only to matters brought to it not comprising cases or appeals, all cases and appeals falling within its jurisdiction being from the date of this Act heard by the Appeals Committee of the Commission of Assembly and governed by the terms of this Act. Where an appeal in a case to be heard by the Appeals Committee of the Commission of Assembly was intimated to and received by the Principal Clerk before the date of this Act, such proceedings shall continue until final disposal in accordance with the law in force immediately before the date of this Act.
SCHEDULE 1

Rules for Presbyteries appointing Commissioners to the Commission of Assembly

1. To ascertain the number of appointees for each Presbytery, the number of ministers and elders commissioned to the General Assembly shall be divided by ten and taken up or down to the nearest whole number, provided that every Presbytery shall appoint at least one minister and one elder.
2. When the formula produces an even number, the Presbytery shall appoint ministers and elders in equal numbers.
3. When the formula produces an odd number:
   (a) in odd years (i.e. 2013, 2015 etc) Presbyteries with odd numbers (ie Presbyteries 1, 3, etc) shall appoint a number of ministers exceeding the number of elders by one and Presbyteries with even numbers shall appoint a number of elders exceeding the number of ministers by one; and
   (b) in even years (i.e. 2014, 2016 etc) Presbyteries with even numbers shall appoint a number of ministers exceeding the number of elders by one, and Presbyteries with odd numbers shall appoint a number of elders exceeding the number of ministers by one.
SCHEDULE 2

Rules of Procedure

1. **Intimation of Appeal**
   1.1 The Appellant shall intimate the appeal to both the clerk of the Court against whose decision the appeal is being taken and to the Principal Clerk.
   
   1.2 The Principal Clerk shall forthwith notify (i) the other person or persons involved in the appeal (“the Respondent”) of the fact that an appeal has been intimated and (ii) both the Appellant and the Respondent of the date by which Grounds of Appeal (as specified in Rule 2 below) must be lodged.

2. **Lodging of Grounds of Appeal by Appellant**
   2.1 Within four weeks of the date upon which the appeal was intimated in terms of Rule 1 above, the Appellant shall lodge Grounds of Appeal with the Principal Clerk, and intimate a copy of those Grounds to (i) the Clerk of the Court or the Secretary of the Presbyterial Commission, as the case may be, against whose decision the appeal is being taken, and (ii) the Respondent in the Appeal.
   
   2.2 The Grounds of Appeal shall consist of brief specific numbered propositions stating the grounds on which it is argued that the appeal should be allowed, and identifying for each ground the relevant subsection of section 2(3) of this Act.

3. **Lodging of Grounds of Appeal by Respondent**
   3.1 A Respondent who wishes a review of any part of the decision may also, within four weeks of the date upon which the appeal was intimated in terms of Rule 1 above, lodge Grounds of Appeal against any part of the decision which has been appealed, those Grounds also to comply with the requirements of Rule 2.2 above.
   
   3.2 The Respondent shall forthwith send a copy of any such Grounds of Appeal to the Appellant and intimate a copy of those Grounds to the Clerk of the Court or the Secretary of the Presbyterial Commission, as the case may be, against whose decision the appeal is being taken.

4. **Documents from previous proceedings**
   4.1 The Clerk of the Court or the Secretary of the Presbyterial Commission, as the case may be, against whose decision is being taken shall transmit to the Principal Clerk all documents relative to the proceedings being appealed against as shall be required for the hearing of the appeal.

5. **Appeal Management Hearings**
   5.1 In any appeal, once the Appellant’s Grounds of Appeal have been lodged, and save where the Convener and the Vice-Convener with the agreement of the Parties decide to dispense with an Appeal Management Hearing, the Principal Clerk shall fix a date for an Appeal Management Hearing.
   
   5.2 The date of the Appeal Management Hearing shall be at least 28 days after the date upon which the Appellant’s Grounds of Appeal were lodged. The Principal Clerk shall
intimate the date of the Appeal Management Hearing to both Parties, giving at least 14 days’ prior written notice of the date.

5.3 At least seven days before the date of the Appeal Management Hearing, the Respondent shall lodge its written response to the Grounds of Appeal (and in the event that the Respondent has lodged any Grounds of Appeal in terms of Rule 3, the Appellant shall lodge its written response to such Grounds of Appeal within the same timescale).

5.4 The purpose of the Appeal Management Hearing shall be to determine whether the Parties are ready to proceed to a hearing of the appeal, and to consider other procedural and practical matters in respect of the appeal.

5.5 The Appeal Management Hearing shall be conducted by the Convener and the Vice-Convener of the Commission which is to hear the appeal. The Clerks of Assembly shall act as clerks to the Appeal Management Hearing.

5.6 An Appeal Management Hearing shall consider the following matters:

a) the Parties’ state of preparation for the Appeal Hearing;
b) setting of a date and duration for the Appeal Hearing;
c) productions required, with the presumption that the productions at the Appeal Hearing shall be those which were before the Court against whose decision the appeal is being taken, unless a Party is allowed to lodge additional material on cause shown;
d) whether the Parties may agree certain productions and evidence, and whether a Joint Minute agreeing any facts may be lodged;
e) whether the timetable for the lodging of the Written Arguments (as defined below) is apt, or requires to be varied in any way, for example to provide that Parties will exchange drafts of their Written Arguments by a certain date;
f) whether or not the Appeal Hearing should be held in private;
g) whether or not a factual investigation of any points is necessary or appropriate, in which case a committee or reporter may be appointed by the Principal Clerk for this purpose;
h) whether there should be evidence led at the Appeal Hearing, the presumption being that this will not occur;
i) whether the Procurator should attend the Appeal Hearing;
j) whether any Party has any objection to any person in the pool for the Commission sitting when the appeal is being heard, which objection may only be made on cause shown and, if sustained, shall disqualify the person or persons objected to from sitting in that appeal;
k) whether either Party wishes to raise any issue of competency or relevancy which might require to be discussed at the outset of the Appeal Hearing; and
l) any other matter concerning the Appeal Hearing, the decision of the Convener and the Vice-Convener as to what should be considered being final.

5.7 The Parties or their representatives shall wherever possible attend the Appeal Management Hearing in person, provided that if the Convener and the Vice-Convener so agree, the Appeal Management Hearing may take place by conference call or other appropriate medium.
5.8 At the Appeal Management Hearing the Convener and the Vice-Convener shall have power to make any order or determination which is just and reasonable and/or which they think appropriate to secure the expeditious disposal of the appeal, which order or determination shall be final. Such order or determination may include in the interests of justice a continuation to a continued Appeal Management Hearing (and this on one or more occasions).

5.9 Where an appeal is against a Presbytery’s decision in terms of section 6(1) or section 14(1) of the Appraisal and Adjustment Act (Act VII 2003), the Principal Clerk shall intimate the date of the Appeal Management Hearing to the Assembly’s Committee. The Assembly’s Committee shall attend the Appeal Management Hearing as an interested party, and may speak, if so desired.

6. Date of Appeal Hearing
6.1 If the date of the Appeal Hearing has not been fixed at an Appeal Management Hearing, the Principal Clerk shall give to the Parties at least 42 days’ notice (or such shorter period as may be agreed by the Parties) of the date fixed for the Appeal Hearing.

6.2 The Principal Clerk shall also give notice of the date fixed for the Appeal Hearing to the members of the Commission for that Appeal Hearing, along with copies of all appropriate papers.

7. Written Arguments prior to Appeal Hearing
7.1 At least 14 days prior to the date of the Appeal Hearing, both the Appellant and the Respondent(s) shall lodge with the Principal Clerk and intimate to the other Party a document comprising their written argument for the purposes of the appeal (“Written Argument”).

7.2 The Written Argument submitted by the Appellant is to be an expansion of the Grounds of Appeal already submitted and is to set out for each ground of appeal, a succinct and articulate statement of the facts founded upon and the propositions of law being advanced.

7.3 The Written Argument submitted by the Respondent shall set out the basis upon which the Respondent is challenging the appeal. It shall set out, in respect of the challenge to each ground of appeal, a succinct and articulate statement of the facts founded upon and the propositions of law being advanced.

7.4 Each Written Argument shall also (i) specify what disposal of the matter is sought by that Party, and (ii) be signed by or on behalf of the Party submitting it.

7.5 Each Written Argument when lodged shall be accompanied by (i) all documents referred to or founded upon in the Written Argument, (ii) subject always to any order or determination made at the Appeal Management Hearing in terms of Rule 5.6 c) above, all productions, or copies thereof, referred to or founded upon in the Written Argument, and (iii) all legal authorities, or copies thereof, listed in the Written Argument.
7.6 Each Party shall, when lodging its Written Argument and accompanying papers, send copies to the other Party.

7.7 No new grounds of appeal may be raised either in Written Argument or at the Appeal Hearing itself, save that on application to the Convener and the Vice-Convener at the Appeal Hearing itself, the Convener and the Vice-Convener shall have sole discretion to allow consideration of any additional grounds of appeal on cause shown.

8. Appeal Hearings
8.1 At the Appeal Hearing the following shall apply:

a. Each Written Argument and supporting documents shall constitute the principal submissions of each Party;
b. Unless it otherwise directs, the Commission will expect each Party to rely upon its Written Argument without reading it over to the Commission;
c. Each Party may, subject to control of the Convener, Vice-Convener or acting convener of the Commission, make comment supplementary to the Written Argument;
d. Each Party may respond to any Written Argument lodged by the other Party; and
e. Each Party shall answer any points raised by any member of the Commission.

8.2 The rules of civil evidence in Scots law shall apply and the standard of proof in any examination of evidence shall be the balance of probabilities. Any witnesses who are called shall be required by the Convener, Vice-Convener or acting convener to take the oath or affirm before giving evidence.

9. Timing at Appeal Hearings
9.1 The Appellant and the Respondent have a duty to co-operate with each other and with the Commission to ensure the completion of the Appeal Hearing within the time allocated by the Commission.

9.2 The Commission may, at any point during the Appeal Hearing, set a timetable for completion by a Party of any submissions permitted in terms of Rule 8.1 above.

10. New information at Appeal Hearings
10.1 On cause shown, the Commission may permit either Party to introduce at the Appeal Hearing new information that has come to light in the period since their Written Argument was lodged.

10.2 Where the Commission permits the introduction of new information, it may at its discretion permit the lodging of new documents in support of the new information.

10.3 A Party who wishes to introduce new information and lodge additional documents shall send a copy of the information and documents to the Principal Clerk and to the other Party as soon as the documents and information come into that Party’s possession.
10.4 A Party who has sent new information and documents to the Principal Clerk shall apply at the Appeal Hearing to allow it to be introduced or lodged, as the case may be.

11. Miscellaneous provisions as to running of Appeal Hearings

11.1 An Appeal Hearing shall proceed from day to day until concluded, provided always that it shall be in the power of the Commission, if in its opinion the justice of the case demands it, or for any other reason which may appear to be sufficient, to adjourn the Appeal Hearing either on its own motion, or at the request of either Party on cause shown, and subject to such conditions as it may think proper to impose.

11.2 The Commission may decide at any stage of the Appeal Hearing that all or part of the proceedings shall be taken in private, provided that if a decision on this matter was taken at the Appeal Management Hearing, a different decision shall be reached at the Appeal Hearing only on cause shown.

11.3 In appeals where it was deemed necessary at the Appeal Management Hearing to hear evidence, witnesses shall be cited in ordinary form by the Clerk of the Commission to appear at the Appeal Hearing. Such witnesses shall be examined on oath or affirmation, as the Commission shall direct, by the Party calling them. Thereafter the witness may be cross-examined by the other Party and the Party calling the witness may thereafter re-examine the witness on any new matter brought out in cross-examination. On the conclusion of the Parties’ examination of a witness, any member of the Commission may put questions to the witness on his or her own behalf, or on the suggestion of either Party.

11.4 Where an appeal is against a Presbytery’s decision in terms of section 6(1) or section 14(1) of the Appraisal and Adjustment Act (Act VII 2003), the Principal Clerk shall intimate the date of the Appeal Hearing to the Assembly’s Committee. The Assembly’s Committee shall attend the Appeal Hearing as an interested party and may speak, if so desired.

12. Recording of Appeal Hearings

12.1 All Appeal Hearings (including for the avoidance of any doubt, the evidence of any witnesses called to appear) shall be audio recorded and the recordings retained by the Clerks of Assembly for at least ten years.

13. Decision of the Commission

13.1 Upon completion of all submissions by both Appellant and Respondent, and once all supplementary comment has been made, responses given, answers stated, and evidence led (if any), the Commission shall retire to consider its decision.

13.2 Upon conclusion of the Commission’s deliberations, the decision of the Commission shall be committed to writing, read over to the Commission, and signed by the Convener, Vice-Convener or acting convener. The Convener, Vice-Convener or acting convener shall then read over the decision of the Commission in the presence of both Parties. Also in the presence of the Parties, the Convener, Vice-Convener or acting convener shall give a brief oral summary of the main reasons for that decision and shall confirm whether the decision was taken unanimously or by majority vote.
13.3 Any decision of the Commission may include instructions issued to a Court or to the Parties.

13.4 Within fourteen days after the end of an Appeal Hearing, the Convener, Vice-Convener or acting convener of the Commission, in consultation through the Principal Clerk with all Commissioners present throughout the Appeal Hearing, shall produce written reasons for the decision of the Commission. The Principal Clerk shall within twenty one days of the end of the Appeal Hearing send a copy of the written reasons to the Parties.

13.5 The written reasons for the decision of the Commission shall be held by the Principal Clerk who upon request shall make them available for public inspection.

14. **No further appeal**
14.1 The decision of the Commission and any instructions issued by the Commission shall be final and binding on the Parties and no further appeal shall be available.

15. **Dispensing etc powers of the Commission**
15.1 On application to it during an Appeal Hearing, the Commission may relieve a Party from the consequences of failure to comply with the provisions of this Act shown to be due to mistake, oversight or some other excusable cause and that on such conditions as the Commission thinks fit.

15.2 On application to it during an Appeal Hearing, the Commission may also allow a Party to amend its grounds of appeal or Written Argument where the need for amendment is shown to be due to mistake, oversight or some other excusable cause and that on such conditions as the Commission thinks fit.

15.3 At any time during the appeal process, the Commission may determine, either on its own motion or following motion of a Party, that it would be in the interests of the justice for the appeal proceedings to be sisted, whether to allow for mediation or otherwise.

16. **Expenses**
16.1 Subject to the provisions of the Discipline of Ministry Act (Act III 2001), the Discipline Act (Act I 2019) and the Legal Aid in Disciplinary Proceedings Regulations (Regs I 2018) as to expenses, the Parties at their own cost may employ Counsel or Solicitors to act on their behalf, or may conduct their case themselves or delegate one of their number to do so.

16.2 A Presbytery whose decision is appealed against shall be entitled, if it so desires, to have the assistance of an Assessor or Assessors appointed by the Legal Questions Committee.

16.3 The expenses of the Commission members and of the proceedings of the Commission shall be defrayed out of the General Purposes Fund of the Church unless and until the General Assembly shall determine otherwise.

17. **Intimations/sending of information**
17.1 Where any document or other information requires to be intimated or sent to any person, that intimation or sending may take place by email.
VI ALTERNATIVE DISPUTE RESOLUTION PROCESSES ACT (ACT VI 2014) (AS AMENDED BY ACT X 2016 AND ACT XVI 2018)

Edinburgh, 17 May 2014, Session I

The General Assembly enact and ordain as follows:—

1. Principles of this Act

   (1) Subject to section 5(1) of this Act, the Church wishes to afford parties to a dispute (which shall include a case or appeal, before any Church court) the opportunity to resolve their differences through alternative dispute resolution processes (“ADR”).

   (2) ADR may involve mediation, conciliation or facilitated conversation.

   (3) ADR will offer all parties to a dispute the opportunity to be heard, will encourage dialogue between the parties, and will provide the parties with time to explore the issues which have arisen between or amongst them, creating an opportunity for them to resolve their differences on a confidential basis.

2. Initiation of ADR

   (1) Subject to section 5(1) of this Act, it shall be the duty of each Presbytery, having regard to the wider interests of the Church, to consider whether ADR may be appropriate in the following circumstances:

      (a) When a dispute first comes to the attention of a Presbytery, and

      (b) When a dispute has just commenced under any Act or Regulation of the General Assembly.

   (2) If in such circumstances as are referred to in section 2(1) above, the Presbytery is of the view that the dispute is one where ADR might be employed, the Presbytery shall discuss with the parties what ADR may be available.

3. Parties’ agreement required

   (1) ADR shall be used only where all parties to the dispute agree to using ADR. If any party does not wish to use ADR, the fact of their decision not to participate in ADR shall not be adversely referred to or used to their prejudice in any later proceedings before any Church court.

   (2) No material arising from ADR shall be used in any subsequent court proceedings.

4. Effect of using ADR

   (1) If the parties are agreed that ADR is to be used, this shall be done without prejudice to existing formal procedures for resolving disputes under any Act or Regulation of the General Assembly, but subject to section 4(2) below.

   (2) Where any case or appeal has formally commenced under any Act or Regulation of the General Assembly, and the parties have subsequently agreed that ADR shall be used, the Church court having jurisdiction over the case or appeal shall sist the matter while ADR is utilised, subject to the following conditions:
(a) Any such sist shall last for a maximum period of twelve weeks.

(b) If ADR does not result in an agreed disposal of the matter within such twelve week period, then the sist shall automatically be lifted subject to the Church court which imposed it having the power, prior to expiry of the said twelve week period, to extend the sist at its discretion. Any extension shall not result in the sist continuing for an aggregate period (comprising the initial twelve week period and all periods of extension) of longer than twenty six weeks.

(c) If ADR does result in an agreed disposal of the matter within such twelve week period (or any extended period(s) as provided for by paragraph (b) above), then the matter shall return to the Church court having jurisdiction for disposal in accordance with such agreement.

5. Use of ADR

(1) ADR shall not be used where a matter is proceeding under any of the Acts listed in the Schedule to this Act.

(2) ADR may be used where a matter is proceeding under any other Act or Regulation of the General Assembly, except where that Act or Regulation expressly excludes the applicability of this Act.

SCHEDULE
Acts in respect of which ADR shall NOT be used

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<td>Readership</td>
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<td>New Charge Development</td>
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<td>Admission &amp; Readmission of Ministers</td>
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The General Assembly, with consent of a majority of Presbyteries, enact and ordain as follows:

1. For the purposes of this Act:
   (a) “appointment” shall mean the appointment of a minister (other than the induction of a minister) or deacon to work with or within the life and witness of a congregation. An appointment may be part or full-time, paid or unpaid. An appointment may be made by the Kirk Session, Congregational Board, Deacons’ Court, Committee of Management or other body responsible for employing persons on behalf of a congregation or by the Presbytery or by a Council or Committee of the Church. An appointment shall include the appointment of an Interim Moderator, Ordained Local Minister, Interim Minister or Transition Minister. “Appointed” shall be construed accordingly.
   (b) “call” means the instrument referred to in the Vacancy Procedure Act (Act VIII 2003), sections 26 and 30.
   (c) “civil partnership” shall have the meaning assigned to it in the Civil Partnership Act 2004, section 1.
   (d) “congregation” shall have the meaning assigned to it in the Appraisal and Adjustment Act (Act VII 2003), section 1(b).
   (e) “deacon” shall mean a person who is a deacon within the meaning of the Deacons Act (Act VIII 2010), section 1.
   (f) “linking”, “deferred linking” and “deferred union” shall have the meanings assigned to them in the Appraisal and Adjustment Act, section 10.
   (g) “minister” shall mean a Minister of Word and Sacrament as defined in section 1(2) of the Parish Ministry Act (Act II 2018).
   (h) “Presbytery” shall mean the presbytery of the bounds of the congregation concerned.
   (i) “same sex marriage” shall mean a marriage between persons of the same sex which is recognised in terms of the Marriage and Civil Partnership (Scotland) Act 2014.
   (j) “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).

2 (1) The historic and current doctrine and practice of the Church in relation to human sexuality (including marriage) and their application to the ministers and deacons of the Church are hereby affirmed.
(2) For the avoidance of doubt, the historic and current doctrine and practice of the Church in relation to human sexuality, their application to the ministers and deacons of the Church and the provisions of this Act are points on which there is liberty of opinion in accordance with Article Declaratory V. Departure from the doctrine of the Church is permitted to this extent.

(3) In recognition of the diversity of views within the Church about the historic and current doctrine and practice of the Church in relation to human sexuality and their application to the ministers and deacons of the Church and in the interests of the peace and unity of the Church, departure from the practice of the Church shall be permitted to Kirk Sessions in terms of sections 3, 4 and 5 of this Act only. In this Act, the term 'depart' and its variants shall be construed accordingly.

3. (1) As from the date of this Act, a Kirk Session may decide to depart in order to permit the ordination, induction or appointment of a minister or a deacon who is in a civil partnership or a same sex marriage.

(2) A Kirk Session may decide that it wishes to depart only:

(a) in time of vacancy after meeting with the advisory committee in terms of section 13(2)(a) of the Vacancy Procedure Act and before the appointment of the nominating committee in terms of section 15 of the Vacancy Procedure Act;

(b) in time of vacancy between the Presbytery instructing the appointment of a fresh nominating committee and the appointment of that committee in terms of section 28(b) of the Vacancy Procedure Act;

(c) at the time when the making of an appointment is being considered and before applications are sought;

(d) in terms of section 3(3) of this Act; or,

(e) in terms of section 3(9) of this Act.

(3) Where a congregation in vacancy has appointed a nominating committee prior to the date of this Act, the Kirk Session shall be entitled to make a decision to depart in respect of that vacancy in accordance with the provisions of sections 3(4)-(7).

(4) When deciding whether or not to depart, the Kirk Session shall take account of the peace and unity and pastoral needs of the congregation and of any parish or other grouping of which it is a part.

(5) To be effective, a decision to depart shall require to be taken in respect of each induction or appointment and may only be taken in accordance with the following process:

(a) A meeting of the Kirk Session shall be held to take a first vote on the matter. The date and time of such meeting, and its purpose, must be properly intimated to the congregation on at least two Sundays prior to its date.
(b) At the first meeting, if a majority of those present and entitled to vote, cast their votes in favour of the decision to depart, a second vote shall require to be held at a later meeting of the Kirk Session.

(c) If a meeting for a second vote is to be held, the date and time of such meeting, and its purpose, must be properly intimated to the congregation on at least two Sundays prior to its date.

(d) At a second meeting, if a majority of those present and entitled to vote, cast their votes in favour of the decision to depart, the decision to depart shall be deemed to be taken.

(e) If at either a first meeting or a second meeting, the Kirk Session’s vote in favour of the decision to depart does not reach the required majority of those present and entitled to vote, the matter shall not proceed further in respect of such induction or appointment.

(6) Meetings in terms of the process outlined in section 3(5) shall be constituted in prayer in accordance with the law and practice of the Church. Only those members of the Kirk Session present at the meeting shall be entitled to vote. Voting shall be by secret ballot using voting papers printed in the form of Schedule 1 hereto. Intimation of the meetings shall be in terms of the edict annexed in Schedule 2 hereto (amended appropriately depending upon whether the meeting in question is a first meeting or a second meeting).

(7) A Kirk Session which has decided to depart shall intimate its decision by sending an extract minute to the Presbytery Clerk within seven days.

(8) (a) A minister or deacon in a civil partnership or a same sex marriage may not be inducted or appointed to a congregation which is in a linking or deferred union unless the Kirk Sessions of all the other congregations affected have also decided and intimated that they wish to depart.

(b) Where it is an explicit provision of a Basis of Union or Linking that the minister of one of the congregations involved shall be minister of the united or linked charge and that minister is in a civil partnership or a same sex marriage, the Basis of Union or Linking shall not be put to a vote of any of the other congregations in terms of the Appraisal and Adjustment Act, section 11(1), unless their Kirk Sessions have decided and intimated that they wish to depart.

(9) (a) In the event of a minister or deacon subsequently entering into a civil partnership or a same sex marriage, that minister or deacon having been inducted or appointed to a congregation the Kirk Session of which had not decided to depart in relation to his or her induction or appointment, the Presbytery shall:

(i) move without delay to offer support and counsel to all affected parties; and,
(ii) in accordance with the provisions of sections 3(4)-(7) and as soon as is practicable, convene the appropriate meetings of the Kirk Session at which the Kirk Session may decide that it wishes to depart.

(b) Unless the Kirk Session decides to depart in terms of section 3(9)(a)(ii), the pastoral tie shall be dissolved or the appointment terminated as appropriate.

(c) Where a congregation is in a linking or in deferred linking or deferred union, the pastoral tie shall be dissolved or the appointment terminated unless the Kirk Sessions of all the other congregations affected have also decided and intimated that they wish to depart.

(d) In the event of the pastoral tie being dissolved in terms of section 3(9)(b) or (c), provision shall be made for the minister in the same way as provided in section 18 of the Congregations in Unsatisfactory State Act (Act I 1988).

(e) Except as provided for in section 3(9)(f), sections 3(9)(a)-(d) shall apply to any minister or deacon whether inducted or appointed before or after the date of this Act.

(f) In respect of ministers and deacons who were ordained or inducted or appointed before 31 May 2009, sections 3(9)(a)-(d) shall not apply in respect of a charge or appointment held as at the date of this Act.

(10) For the avoidance of doubt a person in a civil partnership or a same sex marriage may only be ordained by a Presbytery as an Ordained Local Minister where there is an agreed designated appointment to a congregation the Kirk Session of which has decided to depart.

4. Subject to section 3(9), the entitlement of a minister or deacon who was ordained or inducted or appointed before 31 May 2009 to remain as a minister or deacon on the same terms and with the same status as any other minister or deacon shall not be prejudiced because he or she was or is in a same sex relationship. Nevertheless he or she may not be inducted or appointed to a congregation the Kirk Session of which has not decided to depart in terms of section 3.

5. (1) A person who is in a civil partnership or a same sex marriage shall be eligible for selection, training and, as provided for in section 3, ordination, as a minister or deacon.

(2) Once ordained, a minister or deacon who is in a civil partnership or a same sex marriage shall have the same status, rights and responsibilities as any other minister or deacon respectively, except that he or she may not be inducted or appointed to a congregation the Kirk Session of which has not decided to depart in terms of section 3.

6. In relation to the doctrine and practice of the Church affirmed in section 2, the right to depart provided for in section 3 and the provisions of sections 4 and 5:

(1) A Presbytery shall not be entitled to refuse to sustain a call to a minister solely on the ground that he or she is in a civil partnership or a same sex marriage, provided that the call is made by the members and adherents of a congregation the Kirk
Session of which has decided to depart in terms of section 3 of this Act. The rights and responsibilities of a Presbytery to exercise superintendence over all the congregations within its bounds are otherwise unchanged.

(2) A member of a Presbytery may decline, on the ground of his or her differing convictions, to accept appointment or to continue as Interim Moderator of a congregation the Kirk Session of which has decided to depart in terms of section 3 of this Act.

(3) A member of a Presbytery may decline, on the ground of his or her differing convictions, to attend the ordination, induction or introduction of a minister or deacon who is in a civil partnership or a same sex marriage within the bounds of the Presbytery.

(4) Other than as provided for in sections 6(2) and (3) a member of a Presbytery shall not be excused the duties or responsibilities of membership.

(5) A Presbytery shall take account of differences of opinion among its members and congregations when conducting its business and fulfilling its duties and responsibilities and shall at all times have regard to the peace and unity of the Church.

(6) If required, a Presbytery shall invite one or more members of one or more other Presbyteries to associate with the Presbytery for the purpose of effecting an ordination, induction or introduction. Such members of other presbyteries shall be deemed to be members of the inviting Presbytery for the purpose of effecting the ordination, induction or introduction only. Section 30 of the Church Courts Act (Act III 2000) shall be construed accordingly.

7. The provisions of this Act give effect to the strongly held religious convictions of significant numbers of the followers of the Church of Scotland.

8. Nothing in this Act implies that the Church permits or will permit its ministers or deacons to register civil partnerships or solemnise same sex marriages.

9. For the avoidance of doubt, a person with a legitimate interest who is aggrieved by a decision made by a court in terms of this Act, may appeal to Presbytery only on one or more of the legal grounds specified in section 1 of the Intimation of Appeals Act (Act V 2004).

Schedule 1

Voting Paper – section 3(6)

| FOR departure from the Church's practice in relation to human sexuality in respect of [*the current vacancy / *the proposed appointment of a (insert title of appointment)] |  |
AGAINST departure from the Church’s practice in relation to human sexuality in respect of [*the current vacancy / *the proposed appointment of a [insert title of appointment]]

Footnote: A vote in favour of departure will allow applications for [*the current vacancy / *the proposed appointment of a [insert title of appointment]] to be considered from, amongst others, individuals who are in a civil partnership or a same sex marriage.

*Please select appropriate alternative

Schedule 2

Edictal intimation of Kirk Session meeting to be read out to congregation – section 3(6)

To be read on two Sundays

This is intimation that a meeting of the Kirk Session of this congregation is to be held at [place] on [date] at [time].

In recognition of the diversity of views within the Church about the historic and current doctrine and practice of the Church in relation to human sexuality and in the interests of the peace and unity of the Church, departure from the practice of the Church in relation to human sexuality is permitted in certain circumstances.

The purpose of the Kirk Session meeting just intimated will be for the Kirk Session to decide whether to depart from the Church’s practice in relation to human sexuality in order for applications for [*the current vacancy / *the proposed appointment of a [insert title of appointment]] to be considered from, amongst others, individuals who are in a civil partnership or a same sex marriage.

In terms of the process for a decision to depart contained in the Ministers and Deacons in Civil Partnerships and Same Sex Marriages Act (Act I 2015), this will be a [*first meeting of the Kirk Session on this matter. If the first vote is in favour of the decision to depart, it will require to be followed up at a subsequent meeting of the Kirk Session by a second vote in favour of the decision to depart in order for that decision to take effect. If the first vote is not in favour of the decision to depart, that decides the matter and no further vote will be held. OR second meeting of the Kirk Session on this matter. The vote at the second meeting will decide whether or not the decision is made to depart.]

Any vote on this matter must achieve a majority of those present and entitled to vote in order to take effect.

C............D...........Interim Moderator

*Please select appropriate alternative.
Note: the form of the above edictal intimation will require to be amended appropriately where the charge in question is part of a linking, deferred linking or deferred union.
The General Assembly enact and ordain as follows;

1. In this Act:

   (1) “congregation” shall, when referring to a Church of Scotland congregation, have the meaning assigned to it in the Appraisal and Adjustment Act (Act VII 2003), section 1(b);

   (2) “Core Leadership Team” shall mean those persons appointed to lead the Presbytery Mission Initiative and who have the responsibilities outlined in the Schedule to this Act;

   (3) “Covenant” shall mean an agreement by which a Presbytery Mission Initiative is set up in terms of section 3 of this Act;

   (4) “Presbytery” shall mean the presbytery of the bounds of the Church of Scotland congregation or congregations who are sponsoring a Presbytery Mission Initiative;

   (5) “Presbytery Mission Initiative” shall mean a Christian community whose purpose is to witness, serve and worship and which has been established in terms of section 3 of this Act;

   (6) “Sponsoring Congregation” shall mean a congregation which is party to a Covenant and may be a congregation or community from another Christian denomination; and,

   (7) “Supervising Congregation” shall mean a congregation of the Church of Scotland which is a Sponsoring Congregation which undertakes the responsibilities outlined in the Schedule to this Act.

2. (1) The Church of Scotland is committed to the principles enshrined in the third Article Declaratory and to be a national church with a distinctive evangelical and pastoral concern for the people and nation of Scotland.

   (2) In particular, the Church is committed to maintaining witnessing, serving and worshipping Christian congregations throughout Scotland.

   (3) In order that the Church may more effectively fulfil these commitments, new forms of witnessing, serving and worshipping Christian communities may be established by means of Presbytery Mission Initiatives. Without prejudice to this generality, a Presbytery Mission Initiative may witness, serve and worship as a network or other non-location specific form provided that its main purpose is to witness, serve and worship within the bounds of the Presbytery.

   (4) A Presbytery Mission Initiative may include or witness, serve and worship in partnership with or alongside a congregation or community from another Christian denomination.
This Act places no restriction on any other expression of Christian witness, service and worship which otherwise complies with the law of the Church.

3. (1) On the instructions, at the request or with the agreement of the Presbytery, one or more congregations within a Presbytery may agree to set up and sponsor a Presbytery Mission Initiative.

(2) For this purpose, the Sponsoring Congregation or Congregations and the Presbytery shall enter into a Covenant.

(3) A Covenant shall reflect and be consistent with the provisions of Schedule hereto and shall be in a form from time to time prescribed by the Ministries Council after consultation with the Legal Questions Committee.

(4) A Presbytery Mission Initiative shall be subject to the superintendence of the Presbytery. Without prejudice to the right and responsibility of the Presbytery to exercise such superintendence as it deems to be appropriate, the Presbytery shall conduct a review of a Presbytery Mission Initiative at least once every five years.

4. For the avoidance of doubt, the provisions of the Parish Ministry Act (Act II 2018), section 4 (which relate to the entry of a minister into another parish) do not to apply to anything done by a minister in furtherance of a Presbytery Mission Initiative.

Schedule

1. (1) One of the Sponsoring Congregations shall be the Supervising Congregation. Where there is only one Sponsoring Congregation, that congregation shall be the Supervising Congregation. The Supervising Congregation must be a congregation of the Church of Scotland.

(2) The Supervising Congregation shall:
   (a) ensure that all requirements of the law of the Church of Scotland and civil law are fulfilled by the Presbytery Mission Initiative;
   (b) hold any funds or other assets, whether heritable or moveable, accumulated by the Presbytery Mission Initiative;
   (c) agree with the Core Leadership Team how any such funds or assets are administered on a day-to-day basis.

2. A Presbytery Mission Initiative shall have a Core Leadership Team which shall include one or more representatives of the Supervising Congregation and one or more representatives of one or more of the other Sponsoring Congregations. No less than two-thirds of the members of the Core Leadership Team shall be drawn from Church of Scotland congregations.

3. The life and witness of a Presbytery Mission Initiative shall be the responsibility of its Core Leadership Team. Without prejudice to this generality, the Core Leadership Team shall be responsible for
(1) developing appropriate expressions of worship, witness and service; and,

(2) ensuring that the Presbytery Mission Initiative is adequately resourced taking account of the commitments of the Sponsoring Congregations and others to support it.

4. (1) For the purposes of Church and civil law, the Supervising Congregation shall be deemed to be the owner of any funds or other assets, whether heritable or moveable, accumulated by the Presbytery Mission Initiative.

(2) The Supervising Congregation shall apply such funds or other assets for the benefit of the Presbytery Mission Initiative for as long as it continues to function or to exist.

(3) If the Presbytery Mission Initiative, for whatever reason, ceases to function or to exist, such funds or other assets shall remain the absolute property of the Supervising Congregation. The Supervising and other Sponsoring Congregations may agree to divide such funds or other assets among them.

5. (1) The Presbytery Mission Initiative shall not be liable for Ministries and Mission Contributions.

(2) Notwithstanding that they are owned by the Supervising Congregation, any funds or other assets held by the Supervising Congregation in terms of Schedule 4, shall be ignored in determining its Ministries and Mission Contributions for as long as the Presbytery Mission Initiative continues to function or to exist.

6. (1) A Presbytery Mission Initiative is not and shall not be treated as a congregation of the Church of Scotland.

(2) A Presbytery Mission Initiative shall have such representation within the life of the Presbytery as is agreed in the Covenant.

7. (1) A Presbytery Mission Initiative shall not have independent legal personality.

(2) Neither a Presbytery Mission Initiative nor a Core Leadership Team nor any person acting on behalf of a Presbytery Mission Initiative or a Core Leadership Team shall have any authority or power to enter into contracts or to incur liabilities in any capacity.

(3) Neither a Presbytery Mission Initiative nor a Core Leadership Team nor any member of either shall allow any holding out or other conduct (including silence) that might cause an inference contrary to Schedule 7(2) to be drawn by any person.
II THE INTERNATIONAL PRESBYTERY ACT (ACT II 2016) (AS AMENDED BY ACT II 2017)

Edinburgh 21 May 2016, Session I

The General Assembly enact and ordain as follows:

1. For the purposes of this Act the following terms shall be deemed to have the meanings hereby assigned to them:
   (1) “the Ministries Council” shall mean the General Assembly’s Ministries Council or any successor body assuming the responsibilities, functions and interests of that Council.
   (2) “the Presbytery of International Charges” shall mean the Presbytery of the Church of Scotland covering all Charges of the Church of Scotland beyond the United Kingdom, the Isle of Man and the Channel Islands (excluding the Charges within the bounds of the Presbytery of Jerusalem); and “Presbytery” shall be construed accordingly. For the avoidance of doubt, the Presbytery will assume the assets and liabilities of the existing Presbytery of Europe.
   (3) “Charge” shall mean any of the congregations specified in Schedule 1 hereto, as the list may from time to time be amended by the Presbytery, subject to the concurrence of the Ministries Council.
   (4) “Partner Church” shall mean a denomination with which the Church of Scotland or any Charge in the Presbytery is connected, whether constitutionally or in fellowship only.
   (5) “Kirk Session” shall mean a Court of the Church with spiritual oversight of a congregation of a Charge (and that notwithstanding that it may be known by another name and may function within the constitution of a Partner Church by such other name).
   (6) “Financial Board” shall mean the body within a Charge having responsibility for its finances.

2. The Presbytery shall, except as otherwise provided for in this Act or in any other legislation of the Church, have the same powers and duties as Presbyteries in Scotland. Membership of the Presbytery shall be in accordance with Act III 2000. The Presbytery shall adopt the current policies, procedures, Standing Orders, Presbytery Plan and other documents regulating the business of the existing Presbytery of Europe.

3. Charges shall comply with the law, custom and practice of the Church as existing from time to time, save as follows: (1) where to do so would be in contravention of the laws, regulations and practice applying in the legal jurisdiction within which a Charge is located, in which event the Kirk Session may, acting reasonably, adopt an appropriate approach so as not to breach such local laws, regulations and practice, and (2) as specified in sections 4 to 7 of this Act.

4. In relation to the appointment of ministers to the Charges, the provisions of Schedule 2 hereto shall apply.

5. In relation to financial arrangements for the Charges, provisions shall be made by way of Regulations.
6. In relation to review of Charges by the Presbytery, the provisions of Schedule 3 hereto shall apply.

7. In relation to heritable properties used by the Charges, the provisions of Schedule 4 hereto shall apply.

8. Nothing in this Act shall affect the rights and position of existing ministers in the Presbytery.

9. Wherever any existing Church legislation is mentioned in this Act and such legislation is thereafter replaced or amended, the section(s) of this Act in question shall then be read as if reference to the replacement and/or amended legislation had been inserted.

10. This Act shall come into effect on 21 May 2016 and Act VIII 2007 (as amended) and Act II 2008 shall be repealed on that date.

Schedule 1
Charges

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Schedule 2
Appointment of Ministers

1. **Persons Eligible for Appointment**

1.1 Those eligible for appointment to be ministers of the Charges shall be the categories of persons listed in section 18 of the Vacancy Procedure Act (Act VIII 2003) as being persons eligible to be nominated, elected and called as minister of parishes in the Church of Scotland, except as provided in the following paragraphs.
1.2 When a minister of the Methodist Church is appointed to the charge of St Andrew's Scots Church, Malta, it is expressly provided that such minister shall be inducted by the Presbytery and the Methodist Church, shall retain status as a minister of the Methodist Conference and shall have full membership of the Presbytery with all the rights, privileges and duties associated therewith and, in particular, shall be authorised to moderate the Kirk Session of the charge. Ministerial discipline shall be in accordance with the procedures of the Methodist Church. On ceasing to be minister of the charge he or she shall cease to be a member of the Presbytery and will no longer be eligible to moderate the Kirk Session and shall not retain any ministerial status within the Church of Scotland, nor be entitled to be registered on the Register of Ministry or to be issued with a Certificate of Eligibility.

1.3 In the event that the Presbytery establishes a new ecumenical partnership in an existing Charge, and the minister of a Partner Church is appointed, it is expressly provided that such a minister shall be inducted by the Presbytery and the other Church, shall retain status as a minister of the Partner Church and shall have full membership of the Presbytery with all the rights, privileges and duties associated therewith and, in particular, shall be authorised to moderate the Kirk Session of the Charge. Ministerial discipline shall be in accordance with the procedures of the Partner Church of the minister. On ceasing to be minister of the charge he or she shall cease to be a member of the Presbytery and will no longer be eligible to moderate the Kirk Session and shall not retain any ministerial status within the Church of Scotland, nor be entitled to be registered on the Register of Ministry or to be issued with a Certificate of Eligibility.

2. New Ministerial Appointments
In the case of a new ministerial appointment being made after the coming into effect of this Act, the following shall apply:-

2.1 The stipend shall be based on the national stipend scale for Scotland, adjusted for local conditions. The Presbytery shall, in consultation with the Kirk Session of the Charge in question and with the concurrence of the Ministries Council, decide on the stipend and on any other special terms and conditions applicable to the appointment as provided for in the Supplementary Stipend Review Procedure agreed between the Presbytery and the Ministries Council, which Procedure may be amended by the Presbytery from time to time but only with the consent of the Ministries Council. In the case of a Methodist minister appointed to Malta, the relevant Methodist Church of Great Britain stipend will apply, adjusted for local conditions.

2.2 The other terms and conditions of the minister's appointment shall be regulated by the Guidance for Ministers Taking Up or Demitting a Charge as agreed between the Presbytery and the Ministries Council, which Guidance may be amended by the Presbytery from time to time but only with the consent of the Ministries Council.

2.3 As regards the manse, the Presbytery shall proceed in terms of Act VIII 2003 and the Supplement to Manse Conditions and Guidelines agreed between the Presbytery and the Ministries Council, which Supplement may be amended by the Presbytery from time to time but only with the consent of the Ministries Council.
Schedule 3
Arrangements relating to the Review of Charges

1. It shall be the duty of the Presbytery to comply with the terms of Act VII 2003 and to keep the Charges under review. The Presbytery Planning Task Group of the Ministries Council shall have normal involvement in Presbytery planning, as would apply for any other Presbytery.

2. The allocation of Full-Time Equivalent ministries for the Presbytery shall be set from time to time by the General Assembly on the recommendation of the Ministries Council.

3. In the event of proceedings being initiated under Act I 1988, the Presbytery may in consultation with the Legal Questions Committee co-opt one or more members of the Committee of Inquiry from outwith the Presbytery.

4. On a vacancy arising for any reason in a Charge, the Presbytery shall apply the terms of Act VIII 2003 in so far as practicable in the local conditions.

5. If the Presbytery, with the concurrence of the Presbytery Planning Task Group, decides that a Charge cannot continue as previously constituted, all the forms of readjustment provided for by Act VII 2003 (as amended), as adapted to take account of local conditions, shall be competent. In the event of the readjustment decided upon requiring the termination by the Presbytery of the minister's tenure, the minister, subject to the disposal of any appeal in the event of the minister exercising his or her right of appeal to the Appeals Committee of the Commission of Assembly, shall on the date of termination be deemed to have demitted his or her charge. The minister shall in such circumstances be entitled to payment of expenses according to the Presbytery's Guidance for Ministers Taking Up or Demitting a Charge as agreed between the Presbytery and the Ministries Council, which Guidance may be amended by the Presbytery from time to time but only with the consent of the Ministries Council.

6. If the Presbytery decides, in consultation with the Ministries Council through the process of appraisal and adjustment, that circumstances exist which would justify the creation of a new Charge, the Presbytery in consultation aforesaid, shall proceed to take all steps necessary to constitute and establish the new Charge, including the provision of suitable buildings whether by sharing, renting or purchase, and the appointment of a minister.

7. The Ministries Council shall report any readjustment or the establishment of any new Charge to the next General Assembly and Schedule 1 hereof shall be amended accordingly.

Schedule 4
Arrangements for Heritable Properties

1. The heritable property pertaining to a Charge ("the property") shall be held by the Financial Board and the Trustees in whom title is vested for the use of and occupation by the Charge concerned. Where local law permits, it shall always be open to the Trustees to transfer the title to their property to the Church of Scotland Trust ("the Trust").
2. Matters relating to the day-to-day management of the property shall be dealt with by the Financial Board of the Charge. It shall be the duty of the Financial Board to maintain the fabric of the property in proper order and repair and fully insured against loss or damage by fire and also against loss or damage by such other risks or perils as are from time to time deemed appropriate by the Financial Board.

3. Without the consent of the Presbytery and of the Trust, it shall not be lawful nor in the power of the Financial Board nor the Trustees in whom title is vested (if other than the Trust) to make any extensive alterations to the property, nor to sell, let (other than on agreements which do not grant security of tenure of more than one year), convey, exchange or otherwise dispose of and deal with the same nor to give and execute mortgages, charges, pledges or other securities over the property. For the purposes of this Act, “extensive alterations” shall have such meaning as shall from time to time be determined by the Presbytery and the Trust acting together.

4. Without the consent of the Presbytery and of the Trust, the Financial Board shall not purchase or take on lease for a period in excess of one year any additional heritable property and, except where all the funds for the purchase or to meet the obligations under the lease are being provided by members or other persons associated with the Charge or from the disposal of property, title to which is not vested in the Trust, title or right to the additional heritable property being acquired or leased shall where local law permits and the Trust agrees be taken in name of the Trust.

5. The Financial Board and the Trustees in whom title to the property is vested (if other than the Trust or ex officis trustees who are office holders of the General Assembly of the Church of Scotland) shall each year submit a written report to the Presbytery concerning the property which shall include details of their management and maintenance thereof and summarise the details of the insurance cover in force with respect to the property. At the year-end the Presbytery shall report diligence to the Trust in respect of property vested in it. In reporting to the Trust the Presbytery is further encouraged, in relation to all property, but subject to such adaptations as may be appropriate to accommodate local laws, regulations and circumstances, to comply with the processes and procedures as set down by The Church of Scotland General Trustees from time to time as to annual inspections and returns in relation to heritable properties.
II REGISTRATION OF MINISTRIES ACT (ACT II 2017) (AS AMENDED BY ACTS VIII AND XIV 2018 AND I 2019)

Edinburgh, 20 May 2017, Session I

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

Definitions

1. a) “the Register” shall mean the Register of Ministry, created and maintained in terms of this Act.

b) “the Rules of Procedure” shall mean the Rules of Procedure applying to the Registration of Ministries Committee, as specified in Schedule 1 of this Act. The Legal Questions Committee shall have powers to make subsequent amendments to the Rules of Procedure, and such amendments shall be reported to the following General Assembly.

c) the “Criteria for Assessment” shall mean the criteria used by the Registration of Ministries Committee when assessing applications related to the Registration of Ministry, as specified in Schedule 2 of this Act. The Legal Questions Committee shall have powers to make subsequent amendments to the Criteria for Assessment, and such amendments shall be reported to the following General Assembly.

d) “the Registration of Ministries Committee” ("the Committee") shall mean a Committee appointed by the General Assembly as a Standing Committee, in terms of the Standing Orders of the General Assembly, which Committee shall be constituted as specified in the Rules of Procedure and shall have the task of dealing with various applications related to the Registration of Ministry.

e) “Minister of Word and Sacrament” shall be understood to include the following sub-categories:

(i) “Minister” shall mean an individual who has been ordained to ministry as defined in section 1(d) of the Selection and Training for Full-Time Ministry Act (Act X 2004).

(ii) “Ordained Local Minister” shall mean an individual who has been ordained to ministry as defined in the Ordained Local Ministry Act (Act IX 2011).

(iii) “Auxiliary Minister” shall mean an individual who has been ordained to ministry as defined in the Auxiliary Ministry Act (Act XIII 2003).

f) “Deacon” shall mean an individual who has been ordained to ministry as defined in the Deacons Act (Act VIII 2010).

The Registration of Ministries Committee

2. There shall be a Registration of Ministries Committee and it shall operate according to the Rules of Procedure.
The Register of Ministry

3. There shall be a Register of Ministry, which shall list all individuals who hold status as Ministers of Word and Sacrament, or as Deacons, within the Church of Scotland.

4. For each individual, the Register shall specify:
   (i) the name, address and contact details of the individual,
   (ii) the Presbytery having jurisdiction over the individual according to the Church Courts Act (Act III 2000),
   (iii) the ministry to which the individual has been ordained,
   (iv) the Category of registration for that individual, by specifying for that individual the Category O, E, R, I, L, or S, with the meaning stated below, and
   (v) the date from which that Category of registration applies.

Initial creation of the Register

5. The provisions contained in sections 6 and 7 shall apply to the initial creation of the Register, in the period following implementation of this Act.

6. Upon the implementation of this Act, each Presbytery shall proceed to compile its section of the Register in respect of individuals within its jurisdiction. Each Presbytery shall ensure that all Ministers of Word and Sacrament, and Deacons, within its jurisdiction shall be entered on the Register in a Category O, E, R, I, L or S, as appropriate to their type of ministry and circumstances, as specified below. Each Presbytery shall submit their section of the Register to the Ministries Council by 1 October 2017, with a view to the Ministries Council commencing operation and maintenance of the Register from 1 January 2018. On that date all provisions of Acts of the General Assembly dealing with Practising Certificates or Qualified Practising Certificates shall cease to have effect.

7. The initial decision as to the Category in which each individual Minister of Word and Sacrament, or Deacon, should be entered shall lie with the relevant Presbytery. Any individual dissatisfied with that initial decision shall be entitled to query the Presbytery’s decision with a view to having his or her categorisation amended to his or her satisfaction through discussion. In the event of any such individual remaining dissatisfied with the Category in which he or she has been entered, then he or she shall have the right of appeal to the Ministries Appeal Panel in terms of section 33 of this Act.

Maintenance of the Register

8. Once the Register has been initially compiled, the Ministries Council shall maintain the Register, with the assistance of Presbyteries.

9. Upon ordaining an individual, as a Minister of Word and Sacrament or as a Deacon, or upon admitting the holder of a Certificate of Eligibility awarded in accordance with the Admission and Readmission of Ministers Act (Act IX 2002) to membership of Presbytery, the Presbytery concerned shall send a relevant extract minute to the
Ministries Council. On receipt of such an extract minute, the Ministries Council shall enter the individual on the Register of Ministry according to the Category specified by Presbytery, subject to the following provisos:

(i) A Minister of Word and Sacrament shall upon ordination or admission be entered in Category O, but if he or she is not appointed to a post which requires Category O registration within three years thereafter, then his or her Category O registration shall lapse on the third anniversary of the date on which the relevant Exit Certificate, or Certificate of Eligibility, was first granted. Thereafter the said individual shall either be registered in Category E in accordance with section 24, or else shall be entitled to choose between Category R or Category I registration and shall inform Presbytery of his or her choice.

(ii) A Deacon shall initially be entered in Category E or in Category R.

Any individual dissatisfied with that initial decision shall be entitled to query the Presbytery’s decision with a view to having his or her categorisation amended to his or her satisfaction through discussion. In the event of any such individual remaining dissatisfied with the Category in which he or she has been entered, then he or she shall have the right of appeal to the Ministries Appeal Panel in terms of section 33 of this Act.

10. Upon written request by an individual, the Ministries Council shall provide to that individual a certified extract of his or her entry on the Register.

Categories of registration for different types of ministry

11. All Ministers, as defined in section 1(e)(i) above, shall be entered on the Register in one of the following categories, with the following meanings:

<table>
<thead>
<tr>
<th>Category</th>
<th>Meaning</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>O</td>
<td>Authorised to hold a pastoral charge and to perform the functions of ministry generally. For the avoidance of doubt, an individual who holds Category O registration is authorised to perform the functions of ministry in Category E or Category R.</td>
<td>Parish ministers; Interim ministers, Transition ministers and Associate Ministers.</td>
</tr>
<tr>
<td>E</td>
<td>Authorised to perform the functions of ministry in connection with an employed ministry post, which is either defined within sections 11 – 13 of the Church Courts Act (Act III 2000), or has been agreed by the Presbytery of the bounds to be a post of equivalent nature in which the functions of ministry would be legitimately discharged. Also authorised to perform the functions of ministry in other circumstances, but not to hold a pastoral charge.</td>
<td>Chaplains (including Regular Forces’ Chaplains); Ministers with employment contracts, with the exception of those listed under Category O above.</td>
</tr>
<tr>
<td>Category</td>
<td>Meaning</td>
<td>Examples</td>
</tr>
<tr>
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</tr>
<tr>
<td>R</td>
<td>Retaining status as a minister and authorised to perform the functions of ministry outwith an appointment covered by Category O or Category E.</td>
<td>This may include retired ministers whose Category O registration has lapsed and those who have retired in accordance with the Long-Term Illness of Ministers Act (Act XV 2002).</td>
</tr>
<tr>
<td>I</td>
<td>Inactive – retaining status as a minister but no longer authorised to perform the functions of ministry, save where authorised under section 16 of this Act.</td>
<td>This may include an individual who declares to Presbytery that he/she no longer intends to perform the functions of ministry. It may also include a person so registered by Presbytery.</td>
</tr>
<tr>
<td>L</td>
<td>Authorised to perform the functions of ministry on a limited basis, as specified in a Legally Binding Agreement, in terms of section 29 of this Act.</td>
<td></td>
</tr>
<tr>
<td>S</td>
<td>Suspended judicially in terms of the Discipline of Ministry Act (Act III 2001) or the Discipline Act (Act I 2019). For the avoidance of doubt, this does not include an individual who has been administratively suspended under Act III 2001 or Act I 2019.</td>
<td></td>
</tr>
</tbody>
</table>

12. All Ordained Local Ministers and Auxiliary Ministers, as defined in sections 1(e)(ii) and 1(e)(iii) above, shall be entered on the Register in one of the following categories, with the following meanings:

<table>
<thead>
<tr>
<th>Category</th>
<th>Meaning</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>O</td>
<td>Authorised to hold a designated appointment as an OLM, or as an Auxiliary Minister and to perform the functions of ministry generally. For the avoidance of doubt, an individual who holds Category O registration is authorised to perform the functions of ministry in Category R.</td>
<td>For an OLM this would be an appointment made in accordance with section 12(1) of Act IX 2011, and for an Auxiliary Minister this would be an appointment made in accordance with section 2(a) of Act XIII 2003.</td>
</tr>
<tr>
<td>R</td>
<td>Retaining status as a minister and authorised to perform the functions of ministry outwith an appointment covered by Category O.</td>
<td></td>
</tr>
<tr>
<td>I</td>
<td>Inactive – retaining status as a minister but no longer authorised to perform the functions of ministry, save where authorised under section 16 of this Act.</td>
<td>This may include an individual who declares to Presbytery that he/she no longer intends to perform the functions of ministry. It may also include a person so registered by Presbytery.</td>
</tr>
</tbody>
</table>
ministry, save where authorised under section 16 of this Act. longer intends to perform the functions of ministry. It may also include a person so registered by Presbytery.

<table>
<thead>
<tr>
<th>Category</th>
<th>Meaning</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>S</td>
<td>Suspended judicially in terms of the Discipline of Ministry Act (Act III 2001) or the Discipline Act (Act I 2019). For the avoidance of doubt, this does not include an individual who has been administratively suspended under Act III 2001 or Act I 2019.</td>
<td></td>
</tr>
</tbody>
</table>

13. All Deacons, as defined in section 1(f) above, shall be entered on the Register in one of the following categories, with the following meanings:

<table>
<thead>
<tr>
<th>Category</th>
<th>Meaning</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>E</td>
<td>Authorised to hold a recognised diaconal appointment or post and to perform the functions of the diaconate generally.</td>
<td>This will include any Deacon holding a recognised diaconal appointment in accordance with section 11 of Act VIII 2010.</td>
</tr>
<tr>
<td>R</td>
<td>Retaining status as a Deacon and authorised to perform the functions of the diaconate outwith an appointment covered by Category E.</td>
<td></td>
</tr>
<tr>
<td>I</td>
<td>Inactive – retaining status as a Deacon but no longer authorised to perform the functions of the diaconate save where authorised under section 16 of this Act.</td>
<td>This may include an individual who declares to Presbytery that he/she no longer intends to perform the functions of the diaconate. It may also include a person so registered by Presbytery.</td>
</tr>
<tr>
<td>S</td>
<td>Suspended judicially in terms of the Discipline of Ministry Act (Act III 2001) or the Discipline Act (Act I 2019). For the avoidance of doubt, this does not include an individual who has been administratively suspended under Act III 2001 or Act I 2019.</td>
<td></td>
</tr>
</tbody>
</table>

**Functions of ministry**

14. The functions of ministry referred to in sections 11 and 12 above shall be:

(1) the conduct of public worship;
the administration of the sacraments; and
the solemnisation of marriage.

**Functions of the diaconate**

15. The functions of the diaconate referred to in section 13 above shall be:

1. the exercise of a ministry of an evangelistic, pastoral, educational or social nature, including the conduct of public worship as need arises; and
2. the solemnisation of marriage, subject to the permission and supervision of the minister or Interim Moderator of the parish in which the marriage takes place. For the purposes of the conduct of marriages, section 4 of the Parish Ministry Act (Act II 2018) shall apply to Deacons.

**Occasional exercise of the functions of Ministry or functions of the diaconate by persons having Category I registration**

16. A person holding Category I registration may on a particular occasion undertake the functions of ministry or the functions of the Diaconate, as the case may be, subject to first having obtained the permission of the Presbytery Clerk.

**Locum Tenens**

17. Any Minister of Word and Sacrament, or Deacon, with an O, E or R registration shall be entitled to work as a locum tenens, subject to the following proviso: an Ordained Local Minister or Auxiliary Minister may only work as a paid locum tenens where he or she is already working in a designated Ordained Local Ministry, or Auxiliary Ministry, appointment and has already fulfilled the requirements of that appointment.

**Forces’ Chaplains**

18. The Ministries Council, in consultation with the Committee on Chaplains to Her Majesty’s Forces, shall arrange appropriate input to the annual conference for Forces’ Chaplains, with a view to keeping Regular Chaplains up to date with ongoing developments in ministry and in relevant aspects of practice and procedure, and thereby facilitating applications for Category O registration from any such Chaplains upon leaving the Forces.

**Specific provisions applying to Category O registration**

19. At the date on which an individual ceases to hold an appointment requiring Category O registration, thereafter he or she may choose to retain his or her Category O registration for a period of up to three years, subject to the following exceptions which shall result in immediate re-categorisation:

1. Where Categories L or S pertain.
2. Where an individual is added to the supplementary lists G, or D as outlined in section 34.
(iii) Where an individual is leaving a post for reasons of ill health, in which case he or she shall be entitled to choose between Category R or Category I registration and shall inform Presbytery of his or her choice.

(iv) Where an individual is demitting his or her first charge within the first five years of ministry and the Presbytery is not satisfied that there are exceptional circumstances which justify this in accordance with section 4(2) of the Vacancy Procedure Act (Act VIII 2003), in which case he or she shall be entitled to choose between Category R or Category I registration and shall inform Presbytery of his or her choice.

(v) Where an individual is retiring at the age of seventy two (72) or thereafter, in which case Category O registration shall not be granted for a full three years but only until the date of his or her seventy-fifth birthday, subject always to the possibility of extension of that Category O registration to a date determined in accordance with the Continuing Parish Ministry Beyond the Age of 75 Regulations (Regs II 2018).

In the event of such an individual not taking up a relevant appointment within that three year period, then his or her Category O registration shall lapse. Thereafter he or she shall either be registered in Category E in accordance with section 24, or else shall be entitled to choose between Category R or Category I registration and shall inform Presbytery of his or her choice.

If an individual chooses not to retain Category O registration, then he or she shall be entitled to choose between Category R or Category I registration and shall inform Presbytery of his or her choice.

20. At the date on which an individual has been newly granted Category O registration by the Registration of Ministries Committee, thereafter he or she shall remain qualified to seek a relevant appointment for a period of three years. In the event of an individual not taking up such an appointment within that time, then his or her Category O registration shall lapse. Thereafter he or she shall either be registered in Category E in accordance with section 24, or else shall be entitled to choose between Category R or Category I registration and shall inform Presbytery of his or her choice.

Annual Review of Categories of registration

21. There shall be a process of annual review of the Categories of registration then appearing on the Register for each individual, to determine whether any changes are necessary or appropriate, which process of annual review shall proceed as set out in this section 21. The first process of review shall commence in March 2018.

(1) Not later than 31 March each year, the Ministries Council shall send to each Presbytery Clerk an extract from the Register, listing all individuals within the jurisdiction of that Presbytery whose names appear on the Register and providing for each individual the existing registration information specified in section 4 of this Act.

(2) Not later than 30 April each year, the Presbytery Clerk shall write to:
(i) Any individual who still holds Category O registration, but without holding a relevant post, informing him/her of the date on which his/her Category O registration shall lapse in terms of section 20 above. If the relevant date is reached without the individual obtaining a Category O post, then the individual concerned shall then be entitled to choose between Category R or Category I registration and shall inform Presbytery of his or her choice.

(ii) Any individual who still holds Category E registration, but without holding a relevant post, informing him or her that his or her Category E registration has lapsed. The individual concerned shall then be entitled to choose between Category R or Category I registration and shall inform Presbytery of his or her choice.

(iii) Any individual holding Category R registration enquiring whether or not they wish such registration to be renewed and requesting details of ministerial functions exercised during the preceding year. Upon receipt of such information, Presbytery shall determine whether to allocate Category R or Category I to that individual.

(iv) Any individual holding Category I registration and whose circumstances are not known to the Presbytery, asking him or her to inform Presbytery if during the previous twelve months he or she has left the communicant membership of the Church of Scotland. On receiving such notice, then the name of that individual shall be removed from the Register.

In each such case the Presbytery Clerk shall specify to the individual concerned that any relevant information must be submitted to Presbytery by 31 May.

(3) After 31 May each year, each Presbytery shall assign each and every individual on its section of the Register to a Category of registration for the following year commencing 1 July, based upon the information supplied in terms of sub-section (2) above. For the avoidance of doubt, where Presbytery requests information but that is not forthcoming, Presbytery shall be entitled to allocate a Category of registration as it sees fit. An individual shall generally remain in the same Category of registration unless there has been a change of circumstances which makes another Category more appropriate. Presbytery shall submit the said section of the Register to the Ministries Council by 30 June.

Appeals arising from annual review process

22. Any individual who is dissatisfied with his or her Category of registration as annually allocated by Presbytery may appeal to the Ministries Appeal Panel in terms of section 33 of this Act.

Intermediate re-categorisation by Presbyteries or by the Ministries Council

23. Each of the Presbytery and the Ministries Council shall have the right to re-categorise any individual’s entry on the Register immediately upon becoming aware of a change in his or her circumstances. If such re-categorisation is made by Presbytery it shall immediately advise (i) the individual and (ii) the Ministries Council. If such re-
categorisation is made by the Ministries Council it shall immediately advise (i) the individual and (ii) the Presbytery. For the avoidance of doubt, (i) a re-categorisation may include removal of the individual from the Register, in which case sections 34 and 35 below may apply, and (ii) any Minister of Word and Sacrament or Deacon may also have his or her registration adjusted or removed at any time as a consequence of judicial process.

24. If a Minister or Deacon currently holding Category O, R or I registration takes up an employed post as defined in section 11 or section 13 of this Act, that individual shall be re-categorised as Category E except in the following circumstances:

(i) if he or she is choosing to retain Category O registration under section 19 of this Act; and
(ii) if he or she left a post for reasons of ill-health, then an application for Category E registration must be made to the Registration of Ministries Committee under section 30 of this Act before any re-categorisation can occur.

25. Any individual dissatisfied with their Category of registration as re-categorised by Presbytery or the Ministries Council may appeal to the Ministries Appeal Panel in terms of section 33 of this Act.

Moving Presbytery

26. If an individual wishes to move to the bounds of another Presbytery then he or she shall first obtain a certified extract of his or her entry on the Register in terms of section 10 of this Act. Such extract shall be exhibited by the individual to the Clerk of the Presbytery to which he or she wishes to transfer. On accepting an individual under its jurisdiction, a Presbytery shall be entitled to re-categorise that individual’s entry on the Register in terms of section 23, subject always to the individual’s right of appeal under section 25.

Applications for change of Category of registration

Application for Category O registration

27. All applications for Category O registration, from individuals registered in categories E, R, or I, or from individuals whose existing Category O registration is due to expire, shall be dealt with in terms of this section 27.

(1) Applications shall be made to the Registration of Ministries Committee on a form specified by that Committee. In considering such applications, the Committee shall:

(i) invite the Presbytery to which the individual is accountable to comment on the application.
(ii) be entitled to obtain an Occupational Health Report in relation to the applicant. Furthermore the Committee shall be obliged to obtain such a report if the applicant left his or her previous appointment for reasons of ill health.
(iii) consider the personal circumstances of the applicant in accordance with paragraph 1 of the Criteria for Assessment which are outlined in Schedule 2 of this Act.

(iv) be entitled to ask the applicant to attend a meeting of the Committee for an interview.

(2) In giving its decision on the application, the Committee may specify what, if any, programme of mentoring, familiarisation, further education, or training, the applicant should be required to undergo. In such cases the Committee shall further specify:

(i) which, if any, aspects of this specified programme must be completed prior to Category O registration being granted.

(ii) which, if any, aspects of this specified programme may be completed subsequent to Category O registration being granted.

In each such instance the Committee shall prescribe a timescale within which such aspects of the programme should be completed.

(3) Having completed any aspects of the specified programme outlined in accordance with section 27(2)(i), an individual may be granted Category O registration, subject to signing a binding agreement that he or she will make all reasonable efforts to complete any remaining aspects, outlined in accordance with section 27(2)(ii), within the prescribed timescale. Subsequent failure to abide by such a binding agreement may be considered to constitute a disciplinary offence.

(4) In order to grant Category O registration the Committee must be satisfied that the individual in question is fit to perform the duties of the relevant post. The Committee may refuse to grant Category O registration, subject to the grounds for such a decision being clearly stated.

Applications from individuals registered in Category S

28. Any applications for a change of registration from individuals registered in Category S shall be dealt with in terms of this section 28.

(1) Applications shall be made to the Registration of Ministries Committee on a form specified by that Committee. In considering such applications, the Committee shall:

(i) invite the Presbytery to which the individual is currently accountable, and, if different, also the Presbytery to which the individual was accountable at the time when the relevant suspension was imposed, to comment on the application.

(ii) instruct the applicant to provide two character references from individuals within the membership of the Church, at least one of whom must be a serving Minister or Deacon.
(iii) consider the personal circumstances of the applicant in accordance with the relevant sections of paragraph 2 of the Criteria for Assessment which are outlined in Schedule 2 of this Act.

(2) In giving its decision on the application, the Committee shall clearly state the grounds on which it has been taken.

(3) For the avoidance of doubt, where the Committee decides that a suspension is to be lifted and Category O registration is being sought, the application shall be considered in terms of section 27 in addition to this section 28 if the applicant has not served in a Category O appointment within the preceding three years.

Applications from individuals registered in Category L

29. Any applications for a change of registration from individuals registered in Category L shall be dealt with in terms of this section 29.

(1) Where a Minister has agreed to demit his or her charge in the interests of peace of the Church and has entered into a legally binding written agreement with the Presbytery and the Ministries Council (a “Legally Binding Agreement”) in terms of which he or she agrees to specified limitations upon his or her eligibility to perform the duties of a Minister for a specified period, the said minister shall be entered on the Register in Category L.

(2) A Minister who is entered on the Register in Category L may undertake only those functions of ministry which are defined in his or her Legally Binding Agreement.

(3) The Minister shall be entitled to a review (or reviews) of the terms and conditions of the Legally Binding Agreement after expiry of a period (or periods) specified within the Legally Binding Agreement. Such a review (or reviews) shall be conducted by the Ministries Council at the point(s) indicated in the Legally Binding Agreement.

(4) The Ministries Council shall inform the Minister concerned and also the Presbytery of the outcome of all such reviews. Subject to satisfactory fulfilment of all of the terms and conditions specified in the Legally Binding Agreement, the Ministries Council may resolve that the Minister shall be re-registered in Category R. Thereafter such Minister shall be eligible to apply for a further change of Category of registration in accordance with the provisions of this Act. For the avoidance of doubt, no Minister registered in Category L may apply for a change of Category of registration and an application for change of Category of registration shall be possible only if the Ministries Council has first resolved that such Minister shall be re-registered in Category R.

(5) A Minister shall have a right of appeal to the Ministries Appeal Panel in terms of section 33 of this Act in respect of any resolution from the Ministries Council with which he or she is aggrieved.
Applications for change of Category of registration from persons who left a post for reasons of ill health

30. Any individual who left a post for reasons of ill health must, if wishing to obtain a Category O or E registration, apply to the Registration of Ministries Committee on a form specified by that Committee, which Committee must obtain an Occupational Health Report on the individual and in order to grant such registration, must be satisfied that the individual in question is fit to perform the duties of a parish minister, or of the relevant employment, as the case may be. All other relevant provisions of this Act, as contained in sections 27 and 31 of this Act, shall also apply.

Other applications for change of Category of registration

31. All applications for a change of Category of registration other than those specified in sections 27 to 30 above shall be made to the Presbytery having jurisdiction over that individual. Applications shall be made to the Presbytery on a form specified by the Ministries Council for all Presbyteries. In considering such applications, the Presbytery shall:

(i) consider the personal circumstances of the applicant, and
(ii) be entitled to ask the individual in question to attend a meeting of representatives of the Presbytery for an interview.

Any individual who is dissatisfied with a decision of Presbytery in terms of this section 31 shall have the right of appeal to the Ministries Appeal Panel in terms of section 33 of this Act.

Appeals from sections 27 to 31

32. Any individual who is dissatisfied with a decision of the Registration of Ministries Committee in terms of sections 27 to 30 of this Act, or with a decision of Presbytery in terms of section 31 of this Act shall have the right of appeal to the Ministries Appeal Panel in terms of section 33 of this Act.

Appeals to Ministries Appeal Panel

33. An appeal to the Ministries Appeal Panel shall be heard in terms of the Ministries Appeal Panel Act (Act VI 2007). Such appeal shall be intimated to the Principal Clerk within fourteen days of the relevant decision of the Committee. An appeal may only be brought on one or more of the following grounds: (a) error in Church law; (b) that in the course of the registration procedure, or in the case of the Ministries Council, in the course of making a resolution, there was a breach of the principles of natural justice or there were irregularities in the process; or (c) that the final decision was influenced by incorrect material fact. The decision reached by the Ministries Appeal Panel in relation to such an appeal shall be final.

Supplementary Lists
34. The Ministries Council shall compile and maintain three supplementary lists, G, D and T, as specified below, which shall be considered to stand apart from the Register of Ministry.

   (1) List G shall contain the names of individuals who were previously Ministers of Word and Sacrament or Deacons of the Church of Scotland but who voluntarily demitted their status.

   (2) List D shall contain the names of individuals who were previously Ministers of Word and Sacrament or Deacons of the Church of Scotland but who were judicially deprived of status.

   (3) List T shall contain the names of individuals who currently hold Temporary Certificates of Eligibility issued under the Admission and Re-admission of Ministers Act (Act IX 2002).

35. Any individual recorded on lists G, or D, who wishes to resume practice as a Minister of Word and Sacrament or as a Deacon, of the Church of Scotland, must make application in accordance with the Admission and Re-admission of Ministers Act (Act IX 2002). Any individual recorded on list T who wishes to become a Minister of Word and Sacrament of the Church of Scotland, must make application in accordance with the Admission and Re-admission of Ministers Act (Act IX 2002).

**Amendments and Repeals**

36. With effect from 1 January 2018, the Ministry Act (Act II 2000) shall be amended as shown in Schedule 3, and other Acts of the General Assembly shall be amended or repealed as specified in Schedule 4.
SCHEDULE 1: Rules of Procedure of the Registration of Ministries Committee

1. The Registration of Ministries Committee (“the Committee”) shall be appointed by the General Assembly as a Standing Committee, in terms of the Standing Orders of the General Assembly.

2. The purpose of the Committee shall be to deal with various applications related to the Register of Ministry.

3. (1) The Committee shall be a committee of five persons, consisting of a Convener, Vice-Convener and three other members. One member shall be appointed by the Legal Questions Committee, one by the Ministries Council and the other three members shall be appointed by the General Assembly on the nomination of the Nomination Committee.

(2) The General Assembly shall appoint a Convener and Vice-Convener, both of whom shall be proposed by the Nomination Committee and selected from its own three nominees. The three nominees proposed by the Nomination Committee shall include one member who is legally qualified, at least one Minister of Word and Sacrament and at least one elder.

(3) The quorum of the Committee shall be three including either the Convener or Vice-Convener.

(4) All members of the Committee shall comply with the provisions of the Conflict of Interest Policy operated by the Assembly Trustees and the various agencies of the General Assembly (“the Policy”). Where a real or perceived conflict of interest exists (for example where an application is received from an individual within the same Presbytery as one or more members of the Committee, or from an individual with close ties to one or more members of the Committee such that a conflict of loyalty may arise) the conflict of interest shall be declared and evaluated by the Committee, which shall decide how it is to be managed in terms of the Policy. If necessary, where it is resolved that a conflict cannot be satisfactorily managed, a substitute member may be co-opted to the Committee by appointment from the Legal Questions Committee or the Faith Nurture Forum. In all circumstances, the minutes of the Committee meeting shall record the members’ discussion, the decision taken and the reasons for it all in terms of paragraph 4.4 of the Policy.

(5) The following persons shall also attend the Committee ex officio in an advisory capacity (i) one or other of the Clerks of the General Assembly and (ii) the Secretary to the Ministries Council. These persons shall not be members of the Committee.

(6) Where the Act specifies that a Presbytery may comment on a particular application, a representative of that Presbytery shall be entitled to attend the relevant Hearing. The Clerk of the Committee shall provide any such Presbytery with at least fourteen days’ notice of such a hearing taking place. For the avoidance of doubt, a representative of Presbytery shall be entitled to
comment on the application, but shall not vote when a decision is made. In the event of a Presbytery representative failing to attend, the Committee shall be entitled to proceed with the Hearing.

(7) When the Committee is considering an application under section 27 of this Act from a chaplain to HM Forces, either the Convener of the Committee on Chaplains to HM Forces, or a substitute person designated by the Convener, shall be invited to attend that part of the Committee’s Hearing. The Clerk of the Committee shall forward a list of proposed Hearing dates, in advance, to the Convener of the Committee on Chaplains to HM Forces.

4. The Committee shall be clerked by the appropriate official within the Ministries Council. The Clerk shall not be a member of the Committee. If the Clerk is not present at a Hearing, the Committee shall appoint a substitute, whether or not a member thereof, to act as Clerk of the Committee during that Hearing.

5. The Committee shall hold Hearings as required to deal with its business. Hearings shall be called by the Clerk thereof. A Hearing may last for as long as business requires, and may deal with various applications.

6. The procedure of the Committee at its Hearings shall be in accordance with the Standing Orders of the General Assembly so far as applicable and consistent with this Act. The Committee shall act in accordance with the Constitution of the Church and the Acts of the General Assembly and nothing in this Act shall be construed as conferring power to contravene or amend existing legislation, or to legislate. The Committee shall be accountable to the Ministries Appeal Panel for its decisions.
SCHEDULE 2: Criteria for Assessment by the Registration of Ministries Committee

The Committee shall apply the following criteria when assessing applications made in accordance with this Act.

1. Any application which is made in accordance with section 27 of the Act shall be assessed against the following criteria:

   (1) The extent to which the applicant has recent experience of leading worship within, or beyond, the Church of Scotland.
   (2) The extent to which the applicant has recent experience of undertaking pastoral work within, or beyond, the Church of Scotland.
   (3) Whether the applicant has recent experience of the dynamics involved when working with volunteers.
   (4) The extent to which the applicant has recently participated in the courts, of the Church, and/or their Councils or Committees, in ways which have kept him or her familiar with current practice.
   (5) The applicant’s current knowledge of Church Law, particularly any areas of Church Law where changes have occurred since he or she was last engaged in the relevant field of ministry, and those areas of Church Law which govern current practice in ministry and mission.
   (6) The applicant’s knowledge of matters of civil law, as it currently affects congregations, and Ministers of Word and Sacrament working within them.
   (7) If relevant, the circumstances which led to the applicant demitting his/her first charge within the first five years of ministry.
   (8) Any other matter which the Committee reasonably considers pertinent in relation to the application in question.

2. Any application which is made in accordance with section 28 of the Act, shall be assessed against the following criteria:

   (1) Where the relevant suspension was imposed for a fixed period, in accordance with section 1(1)(j)(ii) of the Discipline of Ministry Act (Act III 2001) or section 40 of the Discipline Act (Act I 2019), the Committee shall consider:

      (i) Whether or not the fixed period of the suspension has been served.
      (ii) Whether or not the information provided in accordance with section 28(1)(i) and section 28(1)(ii) provides satisfactory assurance in relation to the current good conduct of the applicant.
      (iii) Any other matter which the Committee reasonably considers pertinent in relation to the application in question.

   (2) Where the relevant suspension was imposed without limit of time but subject to a minimum period of suspension, in accordance with section 1(1)(j)(iii) of the Discipline of Ministry Act (Act III 2001) or section 40 of the Discipline Act (Act I 2019), the Committee shall consider:

      (i) The circumstances which led to the applicant being suspended and the determination of the Presbyterial Commission or Discipline Tribunal, as
the case may be, at the time when the relevant suspension was imposed, including without limitation, all paperwork submitted to the court in connection with that decision. The Committee shall further consider, if appropriate, the determination of the Judicial Commission which heard any associated appeal, including without limitation, all paperwork submitted to the court in connection with that decision.

(ii) Whether or not the information provided in accordance with section 28(1)(i) and section 28(1)(ii) provides satisfactory assurance in relation to the current good conduct of the applicant.

(iii) Whether or not the specified minimum period of suspension has been completed.

(iv) Whether or not the period of suspension which has been served is considered to be adequate.

(v) Any other matter which the Committee reasonably considers pertinent in relation to the application in question.
SCHEDULE 3: Amended Act II 2000

Superseded: the Ministry Act (Act II 2000) was repealed when the Parish Ministry Act (Act II 2018) was enacted.
SCHEDULE 4: Amendments and Repeals

Act III 2000 (Church Courts)

In section 11,

(1) Insert a new subsection (3) “a Pioneer Minister” and renumber accordingly
(2) At subsection (6), delete “hospital” and substitute “healthcare”; and
(3) Insert a new subsection (9) “a university chaplain” and renumber accordingly.

Delete the existing section 14 and substitute the following:

“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 section 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.”

Delete the existing section 18 and substitute the following:

“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.”

In section 20 delete the words “satisfactory evidence of status and good standing” and substitute the following: “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,”

Act III 2001 (Discipline of Ministry)

Delete the existing sections 1(1)(j)(ii) and (iii) and substitute the following:

“(ii) suspension from the status and functions of ministry for a fixed period. Suspension may only be lifted in accordance with section 28 of the Registration of Ministries Act (Act II 2017) upon application by the Respondent.

(iii) suspension from the status and functions of ministry without limit of time but subject to a minimum period of suspension to be determined by the Presbyterial Commission when passing censure upon the Respondent in terms of section 18(2) hereof. Suspension may only be lifted in accordance with section 28 of the Registration of Ministries Act (Act II 2017) upon application by the Respondent.”
Act IV 2001 (Ministers and Deacons in Public Office)

Delete the existing section 2(2) and substitute a new section 2(2) as follows:

“It shall not be necessary for such a minister to make formal application to demit, but the Presbytery shall allow the demission unless there be special ground to refuse to do so, and shall appoint an Interim Moderator. If at the time of the demission the minister holds Category O registration, he or she may opt to retain that under section 19 of the Registration of Ministries Act (Act II 2017), failing which the Presbytery shall re-register the minister on the Register of Ministry in Category R or Category I, the minister in question being entitled to choose between Category R or Category I registration.”

Act XV 2002 (Long-Term Illness of Ministers)

Delete section 12 and insert a note in italics to say that these provisions are superseded by the RoM Act.

Act VIII 2003 (Vacancy Procedure)

Delete the existing section 18 (Eligibility for Election) and substitute the following:

18. Eligibility for Election

The following categories of persons, and no others, are eligible to be nominated, elected, and called as ministers of parishes in the Church of Scotland, but always subject, where appropriate, to the provisions of Act IX 2002:

1. A minister holding Category O registration, in terms of the Registration of Ministries Act (Act II 2017);

2. A minister who has applied for Category O registration, whose application is currently under consideration, provided that before the call can be sustained or the minister in question inducted, Category O registration must have been granted;

3. (a) A licentiate of the Church of Scotland who has satisfactorily completed, or has been granted exemption from, his or her period of probationary service.

(b) A Graduate Candidate holding a Graduate Candidate’s Certificate in terms of section 22 of Act X 2004.

4. The holder of a Certificate of Eligibility in terms of Act IX 2002. The holder of a Certificate of Eligibility who is a national outside the European Economic Area and Switzerland shall be eligible to apply for charges only in terms of section 27 of Act VIII 2003.

5. For the avoidance of doubt anyone who has served as an Interim Moderator in the current vacancy shall not be eligible to apply or to be considered as an applicant.

6. Notwithstanding subsections (1) to (4) above, an individual shall not be eligible to apply, or to be considered as an applicant, while he or she is the subject of ongoing proceedings being undertaken in accordance with the Discipline of Ministry Act (Act III 2001).”

Delete the existing section 21(3) (Nomination) and substitute the following:
“(3) Before reporting the Nomination to the Vacancy Procedure Committee, the Presbytery Clerk shall obtain from the nominee or Interim Moderator evidence of the eligibility of the nominee to be appointed to the charge.

(a) In the case of a minister being a member of Presbytery, this shall constitute a certified extract from the Register of Ministry showing that the minister has Category O registration.

(b) In the case of a minister not being a member of any Presbytery of the Church of Scotland, this shall constitute an Exit Certificate or Graduate Candidate’s Certificate in terms of Act X 2004, or a Certificate of Eligibility in terms of Act IX 2002.”

Amend section 28(c)(ii) (Failure to Nominate) to read as follows:

“The Presbytery Clerk shall thereupon intimate to the person concerned the fact of his or her appointment, shall request him or her to forward a letter of acceptance along with a certified extract from the Register of Ministry showing that the minister has Category O registration, and shall arrange with him or her to conduct public worship in the vacant church or churches on an early Sunday.”

Add the following wording at the end of section 29(1):

“and evidence of Category O registration in the form of a certified extract from the Register of Ministry.”

In section 29(2), delete the words “and the letter of acceptance” and substitute “, the letter of acceptance and evidence of Category O registration in the form of a certified extract from the Register of Ministry”.

Add a new subsection (4) to section 30 (Sustaining the Call):

“No Call shall be sustained until evidence that the new minister has Category O registration, in the form of a certified extract from the Register of Ministry, has been laid before the Vacancy Procedure Committee.”

Act XIII 2003 (Auxiliary Ministry)

Delete the existing section 2(d) and substitute the following:

“When an Auxiliary Minister ceases to serve in a designated appointment then he or she shall become subject to section 19 of the Registration of Ministries Act (Act II 2017).”

Act X 2004 (Selection and Training)

Insert a new subsection (6) to section 22 as follows and renumber the existing subsection (6) as subsection (7):
“A Presbytery may issue a Graduate Candidate’s Certificate on up to three occasions only. Thereafter, in order to obtain a Graduate Candidate’s Certificate, the Graduate Candidate must apply for such a Certificate to the Registration of Ministries Committee, following an application procedure equivalent *mutatis mutandis* to that set out in section 27 of the Registration of Ministries Act (*Applications for Category O registration*) (Act II 2017).”

**Act VI 2007 (Ministries Appeal Panel)**

*The second sentence of section 5 shall be deleted and the following shall be substituted:*

“The Ministries Appeal Panel shall also hear appeals by ministers and deacons taken against decisions of the Registration of Ministries Committee in terms of the Registration of Ministries Act (Act II 2017), in accordance with section 33 of that Act.”

**Act VIII 2010 (Deacons)**

*Add the following sentence at the end of section 8(d):*

“A Deacon who does not occupy such a parish appointment, or other qualifying post, but who is registered on the Register of Ministry in Category R, shall be entitled to apply for membership of Presbytery on the same basis as a Minister of Word and Sacrament holding Category R registration, being in terms of section 14 of Act III 2000.”

*Delete the existing section 11 and substitute the following:*

**The functions and sphere of service of a Deacon**

11. The functions of the Diaconate are defined in section 15 of the Registration of Ministries Act (Act II 2017). Those functions may be exercised in one or more of the following spheres:

   (a) service in the employment of a Council, Committee or Court of the Church;
   (b) service in a Chaplaincy, including University, College, School, HM Forces, Prison and Hospital, or as a Lecturer or Teacher in Religious Education, and in similar spheres;
   (c) other service which is approved by the Ministries Council and the Presbytery concerned.

*Delete the existing section 14 and substitute the following:*

**“Responsibility for Life and Doctrine**

14. (a) A Deacon shall be responsible for his or her life and doctrine to the Presbytery having jurisdiction in accordance with section 4(ii) of the Registration of Ministries Act (Act II 2017).

   (b) A Deacon is under obligation to notify the Presbytery Clerk of any change of address.”

*Delete the existing section 16 and substitute the following:*
“Registration of Deacons

16. Deacons shall be registered on the Register of Ministry in accordance with the provisions of the Registration of Ministries Act (Act II 2017)."

Delete the existing section 17 and insert a note in italics to say that these provisions are superseded by the RoM Act.

In Appendix A, delete the section currently headed “Constitution” and substitute the following:

“Constitution

The Council shall consist of:
(i) All Deacons registered on the Register of Ministry in Category E or R
(ii) Deacons registered on the Register of Ministry in Category I may attend Council at their own expense and be non-voting members.
(iii) Two members appointed by the Ministries Council
(iv) Deacons ordained or commissioned by the Church of Scotland who are serving overseas as members of another Church shall be entitled when on furlough to attend all meetings of the Council as corresponding members without the right to vote.”

In Appendix C, delete section 4. currently headed “Membership” and substitute the following:

“4. Membership

All Deacons registered on the Register of Ministry in Category E or R shall be full members of the Association.
All Deacons registered on the Register of Ministry in Category I shall be associated but without voting power.
Deacons serving a probationary period shall be associated but without voting power.
Deacons ordained/commissioned by the Church of Scotland who are serving overseas as members of another Church may be corresponding members, and when on furlough may attend meetings but may not vote.
Deacons of other denominations may be associated.”

Act VII 2011 (Protection of Vulnerable Groups)

Delete the existing section 1(c) and substitute the following:

(c) Minister, for the purposes of this Act only, refers to all Ministers of Word and Sacrament (as defined in the Registration of Ministries Act (Act II 2017) undertaking regulated work with children and young people and/or protected adults and specifically includes retired Ministers of Word and Sacrament who are actively involved in ministerial functions in a congregation or congregations, locum Ministers, and Ministers registered on the Register of Ministry in Category R; however, the term Minister does not include ministers employed by external employers/agencies.

Act IX 2011 (Ordained Local Ministry)
Delete the existing section 21(4) and substitute the following:

“When an Ordained Local Minister ceases to serve in a designated appointment he or she shall become subject to section 19 of the Registration of Ministries Act (Act II 2017).

Delete the existing section 22(2) and substitute the following:

“When an Ordained Local Minister moves from one Presbytery to another he or she shall be subject to the terms of section 26 of the Registration of Ministries Act (Act II 2017).”

Delete the existing section 22(3).

Act II 2016 (International Presbytery)

In sub-paragraphs 1.2 and 1.3 of Schedule 2, delete the last sentence of each sub-paragraph and substitute the following:

“On ceasing to be minister of the charge he or she shall cease to be a member of the Presbytery and will no longer be eligible to moderate the Kirk Session and shall not retain any ministerial status within the Church of Scotland, nor be entitled to be registered on the Register of Ministry or to be issued with a Certificate of Eligibility.”
IX MINISTRY AND DEAF CONGREGATIONS ACT (ACT IX 2017)
Edinburgh, 24 May 2017, Session IV

The General Assembly enact and ordain as follows:

1. A person seeking to be appointed to work as a minister for a congregation of deaf people (as such congregations are specified in the Congregations of Deaf People Regulations (Regs II 2017)) shall fulfil all of the following conditions:

(a) he or she shall be a member of the Church of Scotland in full communion, failing which he or she shall be a person who would qualify to receive a Certificate of Eligibility under the Admission and Readmission of Ministers Act (Act IX 2002) were he or she to undergo that process;

(b) he or she shall possess communication skills to a level described by the National Occupational Standard CFALANG4.6, i.e. to “Understand Complex Signed Language in a Wide Range of Work Situations”, failing which he or she shall be a person who has attained communication skills to a level CFALANG4.5, i.e to “Understand Extended Signed Language in a Wide Range of Familiar or Work Situations”, in which latter case he or she shall be appointed subject to a condition of working to improve signed language skills up to CFALANG4.6 within a specified timescale, the appropriate course or method being funded by the Ministries Council;

(c) he or she shall have fulfilled as a minimum the requirements for academic study specified in sections 9 and 10 of the Ordained Local Ministry Act (Act IX 2011); and

(d) he or she shall be able to demonstrate practical experience of working with the deaf community for a total period of at least three years in the last five years.

2. For the avoidance of doubt, a person appointed to work as a minister for a congregation of deaf people in terms of this Act shall be restricted to this ministry, unless he or she is otherwise qualified to undertake other forms of ministry consistent with the Registration of Ministry Act (Act II 2017).

3. The Missionaries among Deaf People Act (Act XXIII 1969) is hereby repealed.
The General Assembly declare and enact as follows:

Definitions
1.  (1) “Auxiliary Minister” means a person referred to as such in the Auxiliary Ministry Act (Act XIII 2003).

(2) “Charge” shall mean a sphere of pastoral duty to which a parish minister is (i) inducted, or (ii) introduced under the arrangements set out in the Ministerial Staffing in the Presbytery of Shetland Regulations (Regs VI 2007).

(3) “Deacon” means a person referred to as such in the Deacons Act (Act VIII 2010).

(4) “Minister” means an individual who has been ordained to ministry as defined in section 1(d) of the Selection and Training for Full-Time Ministry Act (Act X 2004).

(5) “Ministers of Word and Sacrament” includes Ministers, Auxiliary Ministers and Ordained Local Ministers.

(6) “Ordained Local Minister” means a person referred to as such in the Ordained Local Ministry Act (Act IX 2011).

Ordination of Ministers of Word and Sacrament and Deacons
2.  (1) Authority to ordain persons as (i) Ministers of Word and Sacrament or (ii) Deacons, is vested in Presbyteries.

(2) Ordination is normally conferred on (i) the holder of an Exit Certificate or of a Graduate Candidate’s Certificate in terms of either Act X 2004 or Act IX 2011, or (ii) an individual who has satisfactorily completed a prescribed course of training for the Diaconate and who is recommended for ordination by the Ministries Council, all in accordance with the Deacons Act (Act VIII 2010).

(3) Ordination of a person described in section 2(2) may occur in any of the following situations:
   (i) in connection with induction by the Presbytery to a Charge,
   (ii) in connection with introduction as an associate minister in a Charge,
   (iii) in connection with introduction as an assistant minister in a Charge,
   (iv) in connection with introduction as an Ordained Local Minister to a designated appointment,
   (v) in connection with introduction as a Deacon to a post in terms of section 11 of Act VIII 2010,
   (vi) in relation to an appointment, the duties of which, in the judgement of the Presbytery, should be undertaken by an ordained Minister,
   (vii) in connection with introduction as a Chaplain to H.M. Forces,
   (viii) in connection with introduction as a professor or lecturer to a chair or lectureship in an accredited institution (as defined in section 1(k) of Act X
2004, ordination being by the Presbytery in which the institution is located, or

(ix) in connection with an overseas appointment made by, or with the approval of, the World Mission Council, ordination in such a case being by a Presbytery in Scotland where there is no local Presbytery having jurisdiction, provided that the Presbytery is satisfied as to the arrangements made.

(4) Where an induction or introduction is to a parochial appointment, an edict shall be read as required by the Vacancy Procedure Act (Act VIII 2003). Otherwise public notice of the intention to ordain shall be given, normally at a Presbytery meeting for ordinary business.

Conduct of Ordinations
3. All services of ordination shall include the reading of the Preamble, the taking of the ordination vows and the signing of the Formula as prescribed in the Basis and Plan of Union.

4. The ordination of a Minister of Word and Sacrament shall be led by a Minister of Word and Sacrament who shall, if the Moderator of the Presbytery be not a Minister of Word and Sacrament, be appointed by the Presbytery from among its members who are Ministers of Word and Sacrament.

5. The ordination of a Deacon shall be led by a Minister of Word and Sacrament or Deacon who shall, if the Moderator of the Presbytery be an elder, be appointed by the Presbytery from among its members who are Ministers of Word and Sacrament or Deacons.

Laying-on of Hands in Ordinations
6. At the ordination of a Minister of Word and Sacrament or a Deacon, all Ministers of Word and Sacrament, Deacons and elders who are members of the ordaining Presbytery are eligible, with others who may be associated with the Presbytery, to take part in the laying-on of hands. Without prejudice to this general eligibility, the Presbytery may, in the interests of good order, determine which of these shall do so at any particular ordination.

Extract Minute
7. Following an ordination, the Presbytery Clerk shall send an extract minute to the Secretary of the Ministries Council.

Commencement, Amendments and Repeals
8. (1) This Act shall come into force on 19 May 2018.

(2) Act II 2000 (Ministry), Act III 2004 (Presbytery Ordinations) and Act VII 2010 (Ordination of Professors and Lecturers) shall be repealed on that date.
The General Assembly declare and enact as follows:—

Definitions

1. (1) “Charge” means a sphere of pastoral duty to which a Parish Minister is (i) inducted or (ii) introduced under the arrangements set out in the Ministerial Staffing in the Presbytery of Shetland Regulations (Regs VI 2007).

(2) “Minister of Word and Sacrament” shall apply to (i) a minister ordained in the Church of Scotland in terms of the Ordination of Ministers of Word and Sacrament and Deacons Act, or (ii) a minister ordained in another church who has been admitted to the Church of Scotland as a Minister of Word and Sacrament by the General Assembly, or (iii) a minister who has been inducted or introduced to a Charge or appointed to a position or office in the Church of Scotland in accordance with a mutual eligibility agreement, or by virtue of holding a Certificate of Eligibility obtained from the Ministries Council or its Executive.

(3) “Parish Minister” means a Minister of Word and Sacrament (i) inducted by a Presbytery to a Charge or (ii) introduced to a Charge under the arrangements set out in the Ministerial Staffing in the Presbytery of Shetland Regulations (Regs VI 2007).

Interim Ministers and Transition Ministers

2. Interim Ministers and Transition Ministers are employed ministers introduced to a Charge for a specific reason and for a specific time. Such ministers will not be inducted to the Charge, which will remain technically vacant in terms of the Vacancy Procedure Act (Act VIII 2003) but they will become Interim Moderator of the Kirk Session(s). The provisions of this Act apply to such Ministers insofar as they are Interim Moderator of the Kirk Session(s).

Interim Moderators

3. (1) For the purposes of this Act an Interim Moderator, if a Minister of Word and Sacrament, shall have the privileges and duties of a Parish Minister, consistent with section 7 of Act VIII 2003. For the avoidance of doubt, this provision applies to Interim Ministers and Transition Ministers.

(2) For the avoidance of doubt, where an elder is serving as Interim Moderator, his/her role shall not extend to performing the functions of parish ministry as stated in section 5 of this Act.

Intrusion

4. A Parish Minister’s field of ministerial work and responsibility lies generally within and does not extend beyond his or her own Charge. A Minister of Word and Sacrament shall not be entitled to enter the bounds of the Charge of an existing Parish Minister to
perform ministerial functions without the previous consent of the Parish Minister in question, save in the following circumstances:

(1) where he or she is acting under special commission or order of the Presbytery of the bounds, or of the General Assembly; or

(2) where a Parish Minister enters the bounds of the Charge of another Parish Minister for the purpose of ministering to members and adherents of his or her own Charge, or

(3) where a Minister of Word and Sacrament holds a post which is listed in sections 11, 12 or 13 of Act III 2000 and enters the bounds of the Charge of a Parish Minister to discharge duties which are directly connected with that post, or

(4) where a Minister of Word and Sacrament enters the bounds of the Charge of an existing Parish Minister to officiate at a marriage or funeral by private invitation.

This Act shall not prohibit a Minister of Word and Sacrament from accepting an invitation to conduct divine service in a church of another denomination.

[For the purposes of the conduct of marriages, this section shall apply to Deacons, see Act VIII 2010, section 12.]

Functions of Parish Minister

5. The ministry of the Word, the conduct of public worship, the dispensing of the Sacraments, and the instruction of the young belong to the Parish Minister, subject to the control and direction of the Presbytery.

Conduct of Public Worship

6. Responsibility for the conduct of public worship includes responsibility to ensure that public worship is conducted in an orderly and reverent manner by the Parish Minister, or in accordance with section 7, or by other persons under the supervision of a Minister of Word and Sacrament, being present in person.

7. For the conduct of public worship in the absence of the Parish Minister, and subject to section 9, only the following may be employed:

(1) Ministers of Word and Sacrament of the Church of Scotland;

(2) Ministers of Word and Sacrament of other Churches:
   (a) with whose Churches there is a mutual eligibility agreement,
   (b) with whose Churches a common recognition of ministries has been approved by the General Assembly,
   (c) who would be entitled to a Certificate of Eligibility, or
   (d) in respect of whom the Presbytery of the bounds is otherwise satisfied that their orders are in accordance with the standards of the Church of Scotland;

(3) probationers;

(4) Licentiates and Graduate Candidates;

(5) candidates for the ministry, including the Ordained Local Ministry, who have been
duly recognised in terms of Act X 2004 or Act IX 2011;

(6) members of the diaconate;
(7) candidates for the diaconate;
(8) ministries development staff employed by the Ministries Council;
(9) readers; and
(10) persons selected and trained to a standard determined by the Presbytery of the bounds in accordance with a scheme or arrangement approved by the Presbytery.

8. (1) Employment in terms of section 7 above shall not necessarily entitle any person to receive a pulpit supply fee, such fees being payable only in accordance with regulations approved by the General Assembly.
(2) No person authorised to conduct worship in terms of subsection 7(10) shall be entitled to a fee, but shall receive reasonable expenses as determined from time to time by the Presbytery.

9. Notwithstanding section 7 above a Parish Minister may occasionally and for special reason invite a person not qualified in terms of the said section to conduct public worship provided that, when an invitation in terms of this section has been accepted the Parish Minister shall intimate the same in writing to the Clerk of the Presbytery within fourteen days.

10. Section 9 above may be construed to include, inter alia, the occasional conduct of public worship by an elder or elders of the congregation.

11. In an emergency when, for any reason, it becomes evident at or before the time appointed for public worship that the responsibility of the Parish Minister under this Act has not been discharged, it shall be the duty of the Session Clerk, whom failing the senior elder present, to lead the congregation in an act of devotion, or invite someone else to do so, and to report the circumstances to the Clerk of the Presbytery as soon as possible thereafter.

Use of Church Buildings

12. The Parish Minister has the following rights and responsibilities as regards use of church buildings:

(1) The place of worship and other ecclesiastical buildings connected with the Charge are at the disposal of the Parish Minister for the purposes of his or her office, subject only to the control of the Presbytery.

(2) The Parish Minister may use them and grant permission to others to use them for all purposes connected with the congregation or any of its organisations, and also for all purposes of an ecclesiastical or charitable nature, even if they be not connected with the congregation, subject to the control of the Presbytery.

(3) The Parish Minister shall not use the buildings nor grant the use of them for any other purposes without the consent of the Kirk Session, Deacons’ Court, Committee of Management, or Congregational Board, as the case may be. In deciding for what uses the church may be granted the sacred character of the building shall be kept in view.

13. The Kirk Session, Deacons’ Court, Committee of Management, or Congregational Board shall not be entitled to use the buildings for any purpose whatever without the consent of the Parish Minister, nor shall they grant the use of the buildings to others without his or her consent.
14. During a vacancy, or the time in which a Parish Minister has leave of absence from the Charge, the Interim Moderator of the Kirk Session shall have the same rights in the use of the church buildings as the inducted Parish Minister.

15. In congregations where provisions are made, either in the title-deeds of the property or in a constitution approved by the Presbytery with regard to the use of the church buildings which differ from what is set forth in sections 12 to 14 of this Act, the provisions of such title-deeds or constitution shall remain in force to the exclusion of this Act in so far as it differs from these provisions, unless and until these provisions shall be competently altered.

Engagement by Ministers of Word and Sacrament in Secular Employment

16. No Minister of Word and Sacrament inducted or introduced to a Charge shall apply for, accept or undertake any remunerative employment or office either within or outwith the jurisdiction of the Church without previously obtaining approval of the Presbytery of the bounds, unless such an appointment is made directly by the General Assembly.

The Parish Minister Precluded from the Office of Congregational Treasurer

17. No Parish Minister shall act as the Congregational Treasurer with respect to any of the congregations in the Charge.

Retirement of Ministers of Word and Sacrament

18. (1) Subject to subsection (4), a Minister of Word and Sacrament inducted or introduced to a Charge shall be inducted or introduced until the date of his or her seventy-fifth birthday, on which date his or her ministry shall terminate as if he or she had resigned his or her Charge and such date been appointed by the Presbytery of the bounds for the demission by the Minister of Word and Sacrament of his or her Charge.

(2) Notwithstanding subsection (1), a Parish Minister inducted to a Charge on a Basis of Unrestricted Tenure, whose Charge is one where the Presbytery Plan anticipates adjustment at the next vacancy, shall be subject to review by Presbytery as follows:

(a) Where the Parish Minister was inducted to the Charge on the basis of an anticipated retirement age of 65, the Parish Minister shall be subject to the Presbytery’s review at a point no later than six months before he or she reaches the age of eligibility for UK state pension. When the Parish Minister concerned does reach the age of eligibility for UK state pension, the Presbytery shall have the right to terminate tenure on the grounds of necessary adjustment, and

(b) Where the Parish Minister was inducted to the Charge on the basis of an anticipated retirement age of 70 (in the case of a Parish Minister inducted prior to 31 May 1995), the Parish Minister shall be subject to the Presbytery’s review at a point no later than six months before he or she reaches the age of 70. When the Parish Minister concerned does reach the age of 70, the Presbytery shall have the right to terminate tenure on the grounds of necessary adjustment.
(3) For the avoidance of doubt, a Parish Minister inducted to a Charge on a Basis of Reviewable Charge under section 12 of the Appraisal and Adjustment Act (Act VII 2003), does not have the right to remain in that Charge beyond the period of tenure specified in the said Basis where this prevents necessary adjustment.

(4) On application by a Parish Minister, his or her tenure may be extended for an agreed period of time according to a process set out in Regulations made by the General Assembly, dealing with Continuing Ministry beyond the age of 75. Service of an application under the Regulations shall prevent the termination of the tenure of the Parish Minister under subsection (1) until the application is determined.

**Repeals**

19. This Act shall come into force on 19 May 2018 and Act II 2000 shall be repealed at that date.
VI VIRTUAL ATTENDANCE AT MEETINGS ACT (ACT VI 2018)
Edinburgh, 19 May 2018, Session 3

The General Assembly enact and ordain as follows:

Definitions

1. In this Act, the following words shall have the following meanings:

   (1) “Designated Body” shall mean a Council or Committee of the General Assembly, or a Presbytery, Kirk Session, Congregational Board, or other financial body existing in the constitution of a congregation.

   (2) “Relevant Meeting” shall mean, subject to section 6 of this Act, a meeting called on the authority of any Designated Body.

   (3) “Virtual Attendance” means that a person is not physically present at a Relevant Meeting, but instead is able to participate in the Relevant Meeting by means of a video and/or audio platform, in like manner to those who are physically present. For the avoidance of doubt, in order to constitute Virtual Attendance the presence of such a person at a Relevant Meeting must entail: (a) the capacity for effective two-way communication, by visual and/or spoken means, between such a person and those physically present and with other people attending virtually; (b) the ability of such a person to engage in debate with, and to ask questions of, those who are physically present and others attending virtually, and to answer questions from them; and (c) the ability of such a person to cast a vote contemporaneously with those physically present and others attending virtually.

Permission for Virtual Attendance

2. (1) It shall be lawful for a Designated Body to resolve that at any subsequent Relevant Meeting(s) of the Designated Body, any person(s) is/are permitted to be in Virtual Attendance.

   (2) If and to the extent that a Designated Body resolves to permit Virtual Attendance, it shall mean that the person(s) in Virtual Attendance is/are deemed to be present at the Relevant Meeting for the purposes of Church law in the same way as if such person(s) had been physically present.

   (3) The Designated Body may make a resolution under this section to permit Virtual Attendance at all Relevant Meetings of that Designated Body, or may make such a resolution only for a specified Relevant Meeting or Relevant Meetings.

   (4) A decision to permit Virtual Attendance at all Relevant Meetings of a Designated Body may subsequently be revoked in respect of future Relevant Meetings.

   (5) For the avoidance of doubt, this section is permissive only and not directive.

Convener or Moderator at a Relevant Meeting
3. (1) It shall be the responsibility of the Convener or Moderator, as the case may be, of any Relevant Meeting where Virtual Attendance is permitted, to establish at the opening of the Relevant Meeting:

   (a) the identity of any persons(s) who purport to be in Virtual Attendance, and
   (b) that such a person(s) is/are in Virtual Attendance as defined in section 1, so that they are permitted to participate in the Relevant Meeting and have the right to vote.

(2) If at any time during a Relevant Meeting the continuing ability of a person in Virtual Attendance to participate in the Relevant Meeting in terms of sections 1 and 3(1)(b) is questioned, it shall be the responsibility of the Convener or Moderator to establish whether the person still meets the requirements of sections 1 and 3(1)(b) and if not to deem that person to have left the Relevant Meeting.

(3) In all cases described in this section the decision of the Convener or Moderator, as the case may be, shall be final.

4. If the Convener, or Moderator, is in Virtual Attendance at a Relevant Meeting and becomes unable to participate in terms of sections 1 and 3(1)(b), then the Relevant Meeting shall either appoint an alternative Convener, or Moderator from amongst those attending, or else the Relevant Meeting shall be deemed to have ended. No substitute shall be so appointed unless qualified to perform the relevant function(s) in accordance with the standing law of the Church.

**No appeal**

5. Providing that a Relevant Meeting remains quorate, no failure of technology however caused, or decision to deem any person to be or not to be in Virtual Attendance or to have left the Relevant Meeting, shall invalidate the Relevant Meeting or any decision taken at the Relevant Meeting, nor shall any such matter be a ground for appeal against any decision taken at a Relevant Meeting.

**Exception for Vacancy Procedure Act (Act VIII 2003)**

6. This Act shall not apply to any Congregational Meetings held under the Vacancy Procedure Act (Act VIII 2003), in respect of which Virtual Attendance shall not at this time be permitted.
The General Assembly enact and ordain as follows:

Definitions
1. In this Act, the following words shall have the following meanings:

   (1) “Applicant” means any person applying to undertake or carry out Regulated Work, whether in a paid or voluntary position.

   (2) “Charge” means a sphere of pastoral duty to which a Parish Minister is (i) inducted, or (ii) introduced under the arrangements set out in the Ministerial Staffing in the Presbytery of Shetland Regulations (Regs VI 2007).

   (3) “Children” means persons under the age of 18 years.

   (4) “Consideration for Listing” means the process at Disclosure Scotland whereby a person is being considered for listing as unsuitable for carrying out Regulated Work with Vulnerable Groups.

   (5) “Covenant of Responsibilities” means a covenant entered into between a Subject and a Safeguarding Panel on behalf of a Kirk Session(s) in the form prescribed from time to time by the Safeguarding Service.

   (6) “Data Protection Policy” means the Data Protection Policy of the Church of Scotland Central Services Committee as that policy exists from time to time.

   (7) “Data Retention Policy” means the Data Retention Policy of the Church of Scotland Central Services Committee as that policy exists from time to time.

   (8) “Decision to list” means a decision by Disclosure Scotland to place a person on any of the lists of persons barred from carrying out Regulated Work with Vulnerable Groups.

   (9) “Disclosure Scotland” means the Scottish Government executive agency which manages and delivers the PVG Scheme.

   (10) “Employing Agencies” means for the purposes of this Act, courts of the Church and Councils and Committees of the General Assembly, and any other bodies so designated by the General Assembly.

   (11) “Guidance” means the Guidance published by the Safeguarding Service from time to time.

   (12) “Listed” means that a person has been placed on any of the lists of persons barred from carrying out Regulated Work with Vulnerable Groups, noting that a person may be barred from working with Children, or with Protected Adults, or from working with both Children and Protected Adults.

   (13) “Parish Minister” means a Minister of Word and Sacrament (i) inducted by a Presbytery to a Charge or (ii) introduced to a Charge under the arrangements set out in the Ministerial Staffing in the Presbytery of Shetland Regulations (Regs VI 2007).

   (14) “Protected Adults” means a person over 16 years of age, who because they receive a certain type of service, become protected. These services are likely to be provided for people affected by physical or mental illness and/or disability, who have particular needs over and above those of the general population.

   (15) “PVG Act” means the Protection of Vulnerable Groups (Scotland) Act 2007 or any subsequent modification, amendment or re-enactment thereof.

   (16) “PVG Scheme Record” means the record that a person receives when they join the PVG Scheme.

   (17) “PVG Scheme Record Update” means an update from Disclosure Scotland of information contained in a PVG Record.
“PVG Scheme” means the scheme legislated for by the PVG Act which is intended to ensure that people whose behaviour makes them unsuitable to work with Vulnerable Groups cannot undertake Regulated Work.

“Recruitment Sub-Committee” means a sub-committee of the Safeguarding Committee which meets to consider information contained in a Self Declaration Form, and/or in a PVG Scheme Record and/or to consider any notifications from Disclosure Scotland and/or any other matters related thereto.

“Registered Sex Offender” means a person who is required to register with the Police in terms of the Sexual Offences Act 2003 or any subsequent modification, amendment or re-enactment thereof.

“Regulated Work” has the meaning given to it in the PVG Act and can be found set out in full in a Schedule to the Guidance.

“Responsible Authorities” means the Police, Local Authorities, Health Boards, Special Health Boards and the Scottish Prison Service.

“Safeguarding” includes but is not limited to (1) taking measures to protect the health, wellbeing and human rights of individuals, especially Vulnerable Groups, which allow them to live their life free from harm, abuse or neglect and (2) responding appropriately to Safeguarding Concerns.

“Safeguarding Committee” means the committee (or any successor body) appointed by the General Assembly to deal with Safeguarding matters in the Church.

“Safeguarding Concerns” means concerns about, or allegations of, harm, abuse or neglect.

“Safeguarding Coordinator” means a person appointed by the Kirk Session(s) to have responsibility for Safeguarding within a Charge.

“Safeguarding Panel” means a panel of at least three persons appointed by the Kirk Session(s) as responsible for Safeguarding in a Charge, and will always include the Safeguarding Coordinator; from time to time additional persons may be co-opted onto a Safeguarding Panel.

“Safeguarding Service” means the Church’s department providing advice, support and action to Safeguarding Coordinators, Kirk Sessions, Presbyteries and others on Safeguarding matters.

“Self Declaration Form” means the form currently prescribed by the Safeguarding Service from time to time, which form is to be completed by an Applicant for the following purposes: providing information to the Safeguarding Service, stating information which might appear on the Applicant’s PVG Scheme Record and undertaking to inform the Safeguarding Service of certain matters.

“Subject” means

(i) Any person who has been convicted of any offence within the Sexual Offences (Scotland) Act 2009 or associated legislation (or any modification, replacement or re-enactment thereof); and/or
(ii) Any person who has been convicted of any other sexual offence;
(iii) Any person who admits to having committed a sexual offence; and/or
(iv) Any person who is currently or who has at any time been a Registered Sex Offender; and/or
(v) Any person in respect of whom the Safeguarding Service receives a notification from any of the Responsible Authorities that such person poses a risk of harm.

“Vulnerable Groups” means Children and/or Protected Adults.

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17 Currently Form SG3
“Worker” means any person undertaking Regulated Work, whether in a paid or voluntary position.

Interpretation
2. (1) Whenever “Vulnerable Groups” are referred to in this Act, that may be a reference to either Children or Protected Adults, or to Children and Protected Adults.

(2) The footnotes in this Act are for information only and do not form part of this Act.

(3) The Safeguarding Service shall be entitled to amend any form referred to in this Act as it deems appropriate from time to time.

Safe Recruitment – Kirk Session(s)
3. (1) Subject to subsection (6) below, the Kirk Session(s) shall ensure that all Workers within the Charge are members of the PVG Scheme, prior to taking up their post.

(2) Subject to subsection (6) below, whenever a person is being recruited and will be undertaking Regulated Work, that person must make application to become a member of the PVG Scheme. If the person is already a member of the PVG Scheme, an Existing PVG Scheme Member Application must be completed and submitted. No person may be employed or appointed to undertake or to carry out Regulated Work unless that person is a member of the PVG Scheme.

(3) The Kirk Session(s) shall appoint a Safeguarding Coordinator. The Safeguarding Coordinator shall have the task of ensuring that all PVG applications required for that Charge are completed accurately and submitted to the Safeguarding Service for processing. The Safeguarding Coordinator shall monitor the return of the applications and their outcome.

(4) Subject to subsection (6) below, if any application results in notification that a person is barred from becoming a member of the PVG Scheme, i.e., is Listed, that person must not be employed or appointed to undertake or to carry out Regulated Work. It is an offence under the PVG Act to employ or appoint a person who is Listed to undertake or to carry out Regulated Work.

(5) In arranging recruitment, the Kirk Session(s) must comply with the Guidance.

(6) In addition, in the case of a person who is domiciled outwith the UK, such further information must be provided and such further checks must be undertaken, both as the Safeguarding Service may require, before that person may be employed or appointed to undertake or to carry out Regulated Work.

Safe Recruitment – Presbyteries and other Employing Agencies
4. (1) Subject to subsection (5) below, Presbyteries and other Employing Agencies shall ensure that all Workers are members of the PVG Scheme, prior to taking up their post.

(2) Subject to subsection (5) below, whenever a person is being recruited and will be undertaking Regulated Work, that person must make application to become a
member of the PVG Scheme. If the person is already a member of the PVG Scheme, an Existing PVG Scheme Member Application must be completed and submitted. No person may be employed or appointed to undertake or to carry out Regulated Work unless that person is a member of the PVG Scheme.

(3) Subject to subsection (5) below, if any application results in notification that a person is barred from becoming a member of the PVG Scheme, i.e., is Listed, that person must not be employed or appointed to undertake or to carry out Regulated Work. It is an offence under the PVG Act to employ or appoint a person who is Listed to undertake or to carry out Regulated Work.

(4) In arranging recruitment, Presbyteries and other Employing Agencies must comply with the Guidance.

(5) In addition, in the case of a person who is domiciled outwith the UK, such further information must be provided and such further checks must be undertaken, both as the Safeguarding Service may require, before that person may be employed or appointed to undertake or to carry out Regulated Work.

Recruitment Sub-Committee

5. (1) At its meetings, the Recruitment Sub-Committee shall deal with the risk assessment of the following:

(i) Any vetting information which has been provided to the Safeguarding Service by Disclosure Scotland.
(ii) Any notification received by the Safeguarding Service from Disclosure Scotland, including a notification that a person is under Consideration for Listing.
(iii) Self Declaration Forms, references, matters of reputational risk and any other pertinent information.

(2) The Recruitment Sub-Committee may decide (one or more of the following):

(a) In relation to safe recruitment:

(i) To recommend that a person is suitable for Regulated Work (which recommendation may or may not be made subject to conditions).
(ii) To recommend that a person is not suitable for Regulated Work.

(b) In relation to a notification from Disclosure Scotland:

(i) To take no action.
(ii) To impose a precautionary administrative suspension, to be reviewed by the Sub-Committee on a three monthly rolling basis.
(iii) To take no immediate action but to reconsider the matter at a further meeting on a date within the next three months.
(iv) To recommend that a person is not suitable for Regulated Work.
Decisions of the Recruitment Sub-Committee shall be notified to the person involved and to the relevant Safeguarding Coordinator. Notification shall include a statement of the reasons for the decision.

Subject always to any appeal in terms of section 6 below, where the Recruitment Sub-Committee makes a decision in terms of section 5(2)(a)(ii) or 5(2)(b)(iv), no Employing Agency shall employ or appoint that person to undertake or to carry out Regulated Work.

Appeals from decisions of the Recruitment Sub-Committee

6. (1) A person in respect of whom a decision has been made in terms of section 5(2)(a)(ii) or 5(2)(b)(iv) as to suitability for Regulated Work has the right to appeal that decision. A person may also appeal against the terms of any conditions applied by the Recruitment Sub-Committee in terms of section 5(2)(a)(i) as to a person's suitability for Regulated Work. Such a person is referred to in section 7 as “the Appellant”.

(2) An appeal can be brought only on one or more of the following grounds:

(a) that there were irregularities in the process whereby the Recruitment Sub-Committee reached its decision
(b) that the final decision of the Recruitment Sub-Committee was influenced by incorrect material fact (subject however to the exception noted below in regard to the contents or accuracy of the PVG Scheme Record), or
(c) that the Recruitment Sub-Committee in reaching its decision acted contrary to the principles of natural justice.

(3) Any disagreement as to the contents or accuracy of the PVG Scheme Record information itself cannot be the subject of an appeal under this procedure and will require to be taken up by the person direct with Disclosure Scotland through the procedures established by that body.

Process for Appeal

7. The appeal shall proceed as follows:

(1) The intention to appeal must be intimated to the Principal Clerk by the Appellant within fourteen days of the date of issue of the relevant decision.

(2) Within a further twenty eight days after the date upon which the intention to appeal was intimated in terms of section 7(1), the Appellant shall lodge with the Principal Clerk a note setting out in writing in brief numbered propositions, the grounds referred to in section 6(2) above upon which he or she is appealing ("the Grounds of Appeal").

(3) Upon receipt of the Appellant’s Grounds of Appeal, the Principal Clerk shall require that within twenty eight days, the Recruitment Sub-Committee lodge a note responding to the Grounds of Appeal.

(4) The appeal will be determined by an Appeal Group comprising three persons selected by the Principal Clerk from the Safeguarding Appeal Panel. The Safeguarding Appeal Panel shall be a Panel of six persons appointed by the
General Assembly, being persons with Safeguarding and other relevant experience, and shall include at least two persons who shall be qualified to practise as lawyers or who are experienced in the law and practice of the Church, and at least two ministers. Having due regard to the need to ensure independent scrutiny of any appeal, none of the Panel shall be current or former employees of any of the Employing Agencies nor shall they be current members of the Safeguarding Committee.

(5) The Appeal Group will be chaired by a person who is either qualified to practise as a lawyer or who is experienced in the law and practice of the Church. The Appeal Group shall include at least one minister. The Appeal Group will be clerked by the Principal Clerk or the Depute Clerk.

(6) The Appeal Group shall be entitled to require both the Appellant and the Recruitment Sub-Committee to provide further information and may determine the appeal either on the basis of written submissions only and/or by holding a hearing. If a hearing is held, procedure shall be in accordance with the Standing Orders of the General Assembly so far as applicable and consistent with this Act.

(7) The Appellant will be notified of the Appeal Group’s decision in writing within six weeks of the written submissions being received by the Principal Clerk or of the hearing date, whichever is later.

(8) The Appeal Group will also notify the Safeguarding Service and the Recruitment Sub-Committee of its decision. The Safeguarding Service will take any necessary action, in accordance with the Appeal Group’s decision.

(9) The decision of the Appeal Group will be final.

Training
8. (1) Each Presbytery shall provide appropriate training on Safeguarding matters to Kirk Sessions, Safeguarding Coordinators and Workers, with updates when appropriate.

(2) Kirk Sessions will maintain records of all training undertaken by Kirk Sessions, Safeguarding Coordinators and Workers and will disclose these records at any time upon request by the Safeguarding Service or the Presbytery.

(3) All Kirk Sessions, Safeguarding Coordinators and Workers must undertake such training as is prescribed by the Safeguarding Service from time to time.

Record retention
9. (1) The Safeguarding Panel will maintain records of Workers within the Charge who are PVG Scheme members in the form of the Safeguarding Congregational Register.\(^{18}\)

(2) All hard copy records of the Safeguarding Panel shall be kept confidentially in a secure place.

\(^{18}\) Currently Form SG7
In accordance with the Data Protection Policy and the Data Retention Policy, the Safeguarding Service will retain originals of the Self Declaration Forms which are signed by all Applicants either (1) to join the PVG Scheme or (2) for an Existing PVG Scheme Member Application. Documents shall be destroyed only in accordance with the Data Retention Policy.

Presbyteries' Responsibilities of Superintendence
10. Presbyteries shall confirm that Kirk Sessions are complying with their obligations under this Act: (1) during Annual Inspections of Records, and (2) as part of Local Church Review, and shall report to the Safeguarding Service in such form as the Safeguarding Service may prescribe from time to time.

Audit
11. Kirk Sessions and Presbyteries shall review and minute on an annual basis their compliance with Safeguarding policies and procedures using the Safeguarding Audit Checklist for Kirk Sessions and Presbyteries\(^9\).

Annual Inspection of Records
12. Kirk Sessions shall submit the Safeguarding Congregational Register\(^{20}\) and the Safeguarding Audit Checklist for Kirk Sessions and Presbyteries\(^{21}\) annually to Presbytery as part of the Annual Inspection of Records.

Obligations on individuals
13. (1) All PVG Scheme members shall advise Disclosure Scotland and the Safeguarding Service promptly of any changes to their personal details.

(2) All PVG Scheme members shall advise Disclosure Scotland and the Safeguarding Service promptly if they cease doing Regulated Work for the Church of Scotland.

(3) All PVG Scheme members must advise the Safeguarding Service promptly of (i) any act, default or omission, or (ii) any circumstances arising, which might affect whether they can undertake Regulated Work.

(4) All persons who sign Self Declaration Forms must adhere to the undertakings given therein.

Workers – Safeguarding Concerns
14. (1) Every Charge must have a Safeguarding Panel.

\(^{9}\) Currently Form SG11
\(^{20}\) Currently Form SG7
\(^{21}\) Currently Form SG11
(2) If any Safeguarding Concerns arise regarding Workers, such Safeguarding Concerns shall be reported without delay by the Safeguarding Coordinator to the Safeguarding Panel and to the Safeguarding Service. The Safeguarding Service shall where appropriate report the matter to Disclosure Scotland.

(3) Nothing in this Act shall detract from the general responsibility of all persons promptly to report any Safeguarding Concerns to the Safeguarding Service.

Safeguarding in the Presbyteries of England, International Charges and Jerusalem

Other services provided by Safeguarding Service
16. The Safeguarding Service may from time to time with the approval of the Council of Assembly enter into arrangements with other churches, agencies and groups as to the provision of Safeguarding services to them.

Management of Subjects (Covenants of Responsibilities)
17. (1) Whenever a Subject wishes to be involved in the life of a congregation, then the following shall apply:

   (i) the Safeguarding Coordinator shall inform the Safeguarding Service (in turn, the Safeguarding Service shall inform the Safeguarding Coordinator if such information comes to its notice);

   (ii) a Covenant of Responsibilities shall be entered into by the Safeguarding Panel on behalf of the relevant Kirk Session(s) with the Subject.

(2) If the Subject refuses to sign a Covenant of Responsibilities, then the Subject shall not be entitled to be involved in the life of the congregation.

(3) The terms of the Covenant of Responsibilities shall be determined by the Safeguarding Service in consultation with the Safeguarding Panel of the relevant Kirk Session(s) and, where appropriate, the Responsible Authorities, in accordance with the Safeguarding Service’s procedures from time to time. The Subject shall have no input into the drafting of the Covenant of Responsibilities, which shall not be negotiable by the Subject. The Covenant shall provide for its regular review and this shall be implemented according to the procedures from time to time of the Safeguarding Service.

(4) A Covenant of Responsibilities is specific to a congregation and is not transferable to a different congregation. Should the Subject wish to be involved in the life of another congregation then a new Covenant of Responsibilities shall require to be entered into and the preceding provisions of this section 17 shall apply. In addition the terms of the Covenant to be entered into in respect of the new congregation
may be determined in consultation with the Safeguarding Coordinator of the former congregation.

**Consequential amendments**

18. (1) This Act shall be added to the list of Acts in the Schedule to the Alternative Dispute Resolution Processes Act (Act VI 2014), as being an Act in respect of which ADR shall not be used.

   (2) The Protection of Vulnerable Groups Act (Act VII 2011) as amended shall be repealed.

**Act to prevail**

19. From its date of passing, the terms of this Act shall prevail where those are inconsistent with any previous deliverances of the General Assembly.
DISCIPLINE ACT (ACT I 2019)

Edinburgh, 18 May 2019, Session 3

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

Part 1 DEFINITIONS, INTERPRETATION AND PRELIMINARY MATTERS

1. For the purposes of this Act:

   (1) “Administrative Suspension” shall mean an instruction given, at any stage of proceedings in terms of this Act, by a Presbytery or any Committee or individuals holding delegated powers from Presbytery so to do, to a Respondent to abstain from the exercise of all of the functions of the office held by the Respondent until the final disposal of proceedings under this Act and “Administratively Suspended” shall be construed accordingly. For the avoidance of doubt, Administrative Suspension shall not constitute or form a part of any form of Censure.

   (2) “Adviser” shall mean a Minister, being a member of Presbytery, selected from a list maintained by the Legal Questions Committee, who acts as an adviser to an Assessor.

   (3) “Alternative Contact” shall mean the alternative contact to the Presbytery Clerk in terms of the Complaints Procedure.

   (4) “Assessor” shall mean (i) an Elder, being a member of a Kirk Session, who is legally qualified and has knowledge of Church Law, or (ii) a solicitor employed in the Church’s Law Department, or (iii) an investigator with experience of the investigation of professional misconduct: any such person in category (i), (ii) or (iii) being appointed from a panel of Assessors in terms of section 17(2), and all Assessors being appointed to the panel by the General Assembly on the nomination of the Nomination Committee.

   (5) “Auxiliary Minister” shall have the meaning ascribed to it in the Registration of Ministries Act (Act II 2017).

   (6) “breach” shall mean material breach.

   (7) “Bullying” shall mean a course of conduct (i.e. conduct which occurs on at least two occasions) amounting to offensive, threatening, abusive, malicious, intimidating or insulting behaviour that may be an abuse or misuse of power, position or knowledge through means that undermine, humiliate, denigrate or injure the person concerned and which is behaviour occurring in circumstances where it would appear to a reasonable individual that it would amount to bullying of that person.

   (8) “Censure” shall have the meaning given to it in Part 10.

   (9) “Censure with consent” shall mean a Censure consented to by the Respondent.

   (10) “Complainer” shall mean a person, Committee or other body making a Disciplinary Complaint.

   (11) “Complaints Procedure” shall mean the complaints procedure operated by Presbyteries as initially approved by deliverance of the General Assembly of 2014 and as amended from time to time.

   (12) “Council” shall mean the Ministries Council or any Task Group or Committee of the Ministries Council.
(13) “Deacon” shall have the meaning ascribed to it in the Registration of Ministries Act (Act II 2017).

(14) “Disciplinary Complaint” shall mean (i) a written allegation or allegations that a Disciplinary Offence has been committed or (ii) circumstances coming to the attention of Presbytery which indicate that a Disciplinary Offence may have been committed.

(15) “Disciplinary Offence” shall have the meaning assigned to it in Part 4.

(16) “Disciplinary Proceedings” shall mean those proceedings carried out in accordance with the provisions of Part 8 in respect of any Disciplinary Offence alleged to have been committed by a Respondent.

(17) “Discipline Tribunal” shall mean a body of three or five persons drawn from the Judicial Panel and constituted to hear Disciplinary Proceedings under this Act, more particularly described in section 7.

(18) “Elder” shall mean a person ordained as an elder (whether or not serving on a Kirk Session, save where otherwise specified in this Act).

(19) “Graduate Candidate” shall have the meaning ascribed to it in the Selection and Training for Full-Time Ministry Act (Act X 2004).

(20) "Harassment" shall mean unwanted physical, verbal or non-verbal conduct related to a Protected Characteristic which has the purpose or effect of violating the dignity of another person or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person, declaring that in deciding whether conduct has that effect, there shall be taken into account the perception of that person, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.

(21) “Investigatory Proceedings” shall mean those proceedings carried out in accordance with the provisions of Part 7 in respect of any Disciplinary Offence alleged to have been committed by a Respondent.

(22) “Judicial Commission” means the Judicial Commission as defined in the Appeals Act (Act I 2014).

(23) “Judicial Panel” shall mean the pool of persons from which shall be appointed (a) a Reviewer, and (b) the members to serve on the Discipline Tribunal and the Judicial Commission.

(24) “Judicial Suspension” shall mean any suspension imposed as a Censure in terms of Part 10.

(25) “Legal Aid Fund” shall mean the Fund maintained by the Legal Questions Committee in terms of the Legal Aid in Disciplinary Proceedings Regulations (Regulations I 2018).

(26) “Licentiate” shall have the meaning ascribed to it in the Candidates, Licentiates and Probationers Act (Act XI 1994).

(27) “Minister” and “Minister of Word and Sacrament” shall have the meanings respectively ascribed to them in the Registration of Ministries Act 2017 (Act II 2017).

(28) “Office-Bearer” shall, for the purposes of this Act only, mean an individual who is serving on a Congregational Board, Deacons’ Court or Board of Management, or any other body deemed by the Presbytery to form part of the governance arrangements of any congregation, or on any committee of any of these bodies or of a Kirk Session or Presbytery, and shall, for the avoidance of doubt, include all Clerks and Treasurers, whether or not such individuals are serving as voting members of any such governing body.
(29) “Ordained Local Minister” shall have the meaning ascribed to it in the Registration of Ministries Act (Act II 2017).

(30) “Procedural Review” shall mean a procedural review carried out by a Reviewer in terms of sections 19(3), 22(2) or 27.

(31) “Protected Characteristic” shall mean any of the following:
Age
Disability
Gender re-assignment
Race
Religion or belief
Sex
Sexual orientation

(32) “Reader” shall have the meaning ascribed to it in the Readership Act (Act XVII 1992).

(33) “Referral” shall mean the referral by a Presbytery of a Disciplinary Complaint to an Assessor in terms of Part 5.

(34) “Register of Ministry” shall mean the Register referred to in section 2 of the Registration of Ministries Act (Act II 2017).

(35) “Respondent” shall mean a person referred to in section 10 against whom a Disciplinary Complaint has been made or has arisen.

(36) “Reviewer” shall mean a person selected from the Judicial Panel and appointed by the Convener or Vice-Convener of the Legal Questions Committee to carry out a Procedural Review.

(37) “Victimisation” shall mean subjecting another person to a detriment because that person has brought a Disciplinary Complaint under this Act, given evidence or information in connection with proceedings under this Act, or done any other thing for the purposes of or in connection with this Act, unless that person acted in bad faith in so doing.

2. For the purposes of this Act (a) the singular shall include the plural unless the contrary intention appears; (b) any reference to a "section" or a "Part" shall be to a section or Part of this Act, (c) any reference to “days” in relation to periods of time or time limits shall be to consecutive calendar days, (d) any reference to an Act of the UK or Scottish Parliament shall include a reference to any subsequent modification, replacement or re-enactment thereof; and (e) any reference to a Certificate of Eligibility shall include a Temporary Certificate of Eligibility.

3. Meetings of the Assessor and the Adviser or of the Discipline Tribunal may be held by conference telephone call, video conference or the like electronic means and proceedings at any meeting held by such means shall be as valid as if the Assessor and Adviser or the members of such Tribunal and any other parties, recorded as attending such meeting, had all been physically present, in person, at a single geographic location.

4. No Assessor, Adviser or Reviewer shall:

(1) take part in any proceedings involving the Presbytery of which they are a member or in which the Kirk Session of which they are a member is situated; or
(2) be appointed to the Discipline Tribunal or a Judicial Commission in any single case or series of related cases in which they have acted as Assessor, Adviser or Reviewer, which proceeds against any Respondent in terms of this Act.

5. The rules of civil evidence in Scots Law shall apply to the conduct of any proceedings governed by this Act and the standard of proof required shall be the balance of probabilities. Where the Disciplinary Complaint is the same as, or substantially similar to, any charge brought against the Respondent in criminal law and the Respondent is proved to have been convicted of the offence in criminal law, by or before any court in the United Kingdom, then the Respondent shall be taken to have committed that offence, unless the contrary is proved.

6. (1) The Assessor may sist proceedings under this Act at any time, in whole or in part, in any of the following situations: (i) pending the outcome of any civil or criminal proceedings or relevant investigations which relate to the Complaint, (ii) due to the ill-health of the Respondent or of a material witness which, in the opinion of the Assessor, having taken such professional advice or considered such evidence as they consider appropriate, prevents the Respondent or material witness from taking part in such proceedings; or (iii) for any other reason which the Assessor deems appropriate.

(2) Once a sist has been imposed, it shall be presumed to continue until such time as the circumstances leading to its imposition no longer pertain, but the appropriateness of the sist continuing shall be subject to review, upon request by the Respondent, at three-monthly intervals from the date of its imposition. Each such review shall be undertaken and decided upon by the Convener, whom failing the Vice-Convener, of the Legal Questions Committee, who shall have power to lift the sist upon cause shown by the Respondent. In making a decision, the Convener or Vice-Convener of the Legal Questions Committee shall first consult with the Solicitor of the Church and the Principal Clerk.

7. The Discipline Tribunal shall be variously constituted as follows:

(1) In the circumstances of a matter proceeding under Part 8 (Disciplinary Proceedings), it shall mean a body of up to five persons, of whom at least one is a Minister or Deacon and one is an Elder, three persons being selected from the Judicial Panel together with a Convener and a Vice-Convener appointed in terms of section 16 of the Appeals Act (Act 1 2014). In this case the quorum of the Tribunal shall be three persons, one of whom must be the Convener, or

(2) In the circumstances of a matter proceeding under Part 9 (Accelerated Procedure) it shall mean a body of up to three persons, comprising one Minister and one Elder selected from the Judicial Panel, together with a Convener appointed in terms of section 16 of the Appeals Act (Act 1 2014). In this case the quorum of the Tribunal shall be two persons, one of whom must be the Convener.

The Solicitor of the Church shall normally serve as Secretary to the Discipline Tribunal but may appoint a Depute to act in his or her place in any particular case. The Secretary shall not be a member of the Discipline Tribunal.
8. Where an Assessor becomes unable to continue with consideration of and/or investigation of and/or disciplinary proceedings in respect of a Disciplinary Complaint, then a new Assessor shall be appointed and the consideration and/or investigation and/or disciplinary proceedings shall continue, subject to all time limits which apply being recalculated to start again as if the Referral had been made on the date on which the new Assessor is appointed.

9. When, in the course of proceedings under the Local Church Review Act (Act I 2011) or the Congregations in an Unsatisfactory State Act (Act I 1988), the Presbytery receives a Disciplinary Complaint indicating that a Disciplinary Offence may have been committed by a Respondent, it may proceed in one of the following ways: (i) it may proceed simultaneously in terms of this Act, or (ii) it may resolve to initiate proceedings under this Act following the completion of the existing proceedings, or (iii) it may resolve to sist the existing proceedings and initiate proceedings under this Act.

Part 2 THOSE SUBJECT TO DISCIPLINE IN TERMS OF THIS ACT

10. The following shall be subject to discipline in terms of this Act:

   (1) Ministers of Word and Sacrament;
   (2) Licentiates;
   (3) Graduate Candidates;
   (4) Deacons;
   (5) Readers;
   (6) Candidates and Probationers in training for the Ministry of Word and Sacrament and Diaconate as referred to in the Selection and Training for Full-Time Ministry Act (Act X 2004), the Deacons Act (Act VIII 2010) and the Ordained Local Ministry Act (Act IX 2011);
   (7) Candidates in training for the Readership as referred to in the Readership Act (Act XVII 1992);
   (8) Elders;
   (9) Office-Bearers;
   (10) Persons holding Certificates of Eligibility issued under the Admission and Re-admission of Ministers Act (Act IX 2002).

Part 3 JURISDICTION

11. It is declared that any proceedings under this Act are part of the exclusive jurisdiction of the Church and in accordance with the Articles Declaratory of the Constitution of the Church of Scotland in Matters Spiritual, as hereby interpreted by the Church.

12. Where an individual against whom an allegation made in terms of this Act is an employee of any congregation or any Court or Committee of the Church, nothing in this Act shall prejudice the application of civil employment law.

13. For the avoidance of doubt, it is declared that nothing in this Act shall reduce the general power of Presbytery to impose an Administrative Suspension on any individual subject to its jurisdiction in terms of this Act, at any time.
14. (1) Proceedings under this Act shall be initiated by the Presbytery having jurisdiction in terms of this section.

(2) Ministers of Word and Sacrament and Deacons shall be subject to the jurisdiction of the Presbytery with which they are registered on the Register of Ministry created by the Registration of Ministry Act (Act II 2017).

(3) Licentiates shall be subject to the jurisdiction of the Presbytery within the bounds of which is the congregation of which they are a member, which failing, the Presbytery of Edinburgh.

(4) Candidates and Probationers in training for the Ministry of Word and Sacrament and Diaconate shall be subject to the jurisdiction of the Presbytery which is supervising them, in terms of sections 18 and 19 of the Selection and Training for Full-Time Ministry Act (Act X 2004) (in the case of the Diaconate, as applied by section 3 of the Deacons Act (Act VIII 2010)), and sections 13 and 14 of the Ordained Local Ministry Act (Act IX 2011).

(5) Candidates in training for the Readership shall be subject to the jurisdiction of the Presbytery which appoints the regent referred to in section 2(e) of the Readership Act (Act XVII 1992).

(6) Graduate Candidates shall be subject to the jurisdiction of the Presbytery which issued their Graduate Candidate’s Certificate in terms of section 22 of the Selection and Training for Full-Time Ministry Act (Act X 2004).

(7) Elders and Office-Bearers shall be subject to the jurisdiction of the Presbytery within the bounds of which is the congregation of which they are a member or in which they serve as an Office-Bearer.

(8) Readers shall be subject to the jurisdiction of the Presbytery upon the Roll of which they appear.

(9) Persons holding Certificates of Eligibility issued under the Admission and Re-admission of Ministers Act (Act IX 2002) shall be subject to the jurisdiction of the Presbytery within the bounds of which they normally reside, which failing, the Presbytery of Edinburgh.

15. Should a Disciplinary Complaint come to the notice of a Presbytery other than that having jurisdiction in terms of this Part 3, it shall communicate the same to the Presbytery having jurisdiction, together with all information pertaining thereto in its possession.

Part 4 DISCIPLINARY OFFENCES

16. “Disciplinary Offence” shall mean:

(1) conduct which is declared censurable by the Word of God;
(2) a breach of an Act, Regulation or Instruction of the General Assembly;
(3) a breach of an established custom of the Church;
(4) a breach of an order or instruction of any court of the Church;
(5) a breach of a Respondent’s vows of ordination;
(6) a refusal to accept, or an attempt to subvert, the authority of any court of the Church or Committee;
(7) conduct unbecoming the office held by the Respondent in the Church or likely to reflect adversely on the Church or bring its name into disrepute;
(8) conduct which is not in conformity with the law or practice of the Church and which constitutes direct or indirect discrimination in terms of the Equality Act 2010;
(9) Harassment or Victimisation as defined in sections 1(20) and 1(37) respectively;
(10) dishonest or deceitful behaviour;
(11) Bullying;
(12) conduct which results in the placing of the name of a Respondent on the Sex Offenders’ Register or the Respondent’s inclusion on the Children’s List and/or the Adults’ List kept under section 1(1) of the Protection of Vulnerable Groups (Scotland) Act 2007;
(13) failure by an individual to advise the Church’s Safeguarding Service of (a) any act, default or omission, or (b) any circumstances arising, bearing upon that individual’s suitability to undertake Regulated Work as defined in the Protection of Vulnerable Groups (Scotland) Act 2007;
(14) other than as permitted in terms of this Act, the issuing by any person subject to this Act of any form of statement about, or details concerning, the alleged Disciplinary Offence, or participating in any interview or discussion with the media or publishing any material on social media regarding an alleged Disciplinary Offence, in all cases after the Presbytery receives notice of an alleged Disciplinary Offence and until the conclusion of any Disciplinary Proceedings and any appeals relating thereto; and
(15) disobedience of an Instruction issued under section 40.

Part 5 REFERRAL

17. (1) Whenever a Disciplinary Complaint comes to the notice of the Presbytery, it shall be considered by the Presbytery Clerk (or the Alternative Contact), whom failing, any member of Presbytery holding delegated powers from Presbytery to act for the Presbytery in respect of the Complaints Procedure or otherwise holding delegated powers from Presbytery to deal with matters of discipline.

(2) If, following consideration in terms of section 17(1), it is decided that the Disciplinary Complaint should be considered under this Act, the Presbytery shall appoint an Assessor and shall refer the consideration of such Disciplinary Complaint to such Assessor. Before making a decision that the Disciplinary Complaint should not be considered under this Act, the Presbytery Clerk shall seek the advice of the Principal Clerk.

(3) Consideration shall also be given at this stage as to whether or not an Administrative Suspension should be imposed on the Respondent in terms of Part 6.
(4) Where there is a Complainer, the Presbytery Clerk shall send written
acknowledgement of the Disciplinary Complaint to the Complainer within seven
(7) days of its receipt.

(5) Once a Referral has been made, the following restrictions shall apply to a
Respondent (with the exception of those Respondents referred to in section 10(8)
or 10(9)) until such time as proceedings under this Act are finally disposed of:

(a) the Respondent shall not be entitled to demit his or her status or to resign
from a Church appointment; a Minister of Word and Sacrament or a Deacon
shall be permitted to demit his or her charge or to resign from a Church
appointment, but if he or she does so, he or she shall remain under the
jurisdiction of the Presbytery until proceedings under this Act are finally
disposed of; and

(b) the Council may not issue an extract of the Respondent’s entry in the
Register of Ministry if he or she seeks to leave the jurisdiction of the
Presbytery.

(6) The Presbytery Clerk shall write to the Respondent to confirm that a Disciplinary
Complaint has been received, advising as to its general nature and confirming that
a Referral has been made and in addition, shall confirm the matters referred to in
sub-paragraphs (a) and (b) above of subsection (5). The Presbytery Clerk shall,
at the same time, send to the Respondent copies of (a) this Act and (b) the
Guidance for Respondents prepared in terms of Part 16 and shall notify the
Secretary of the Council in writing that the Referral has been made (save where
the Respondent is one referred to in section 10(8) or 10(9)).

(7) Notwithstanding subsection (5) above, a Respondent may, provided that no
appeal is being taken to the Judicial Commission and provided also that the
procedure set out in section 33 of Act VIII 2003 is followed, demit status at any
time after the Discipline Tribunal issues a decision on Censure in the
Respondent’s case.

(8) At the same time as appointing the Assessor, the Presbytery shall make suitable
arrangements for the provision of pastoral support for (i) the Respondent and his
or her family, (ii) any Complainer(s), (iii) any witnesses in respect of the
Disciplinary Complaint residing within the bounds of the Presbytery, (iv) the
congregation and (v) any Office-Bearers involved in the Disciplinary Complaint.
The Presbytery may call upon a neighbouring Presbytery and/or the Secretary of
the Council to assist in the provision of pastoral support. The Presbytery Clerk
shall make a written report on the arrangements, so made, to the Assessor, when
appointed.

(9) In the Assessor’s report to the Presbytery in terms of section 19(1), the Assessor
shall comment on the arrangements for pastoral support made by the Presbytery
in terms of section 17(8), providing an assessment as to their adequacy and may
raise any inadequacy with Presbytery during the course of his or her consideration
of the Referral and may make suggestions as to how such inadequacy could be
rectified.
(10) Except insofar as provided herein, once an Assessor has been appointed, the Presbytery shall have no further part in the proceedings.

18. (1) The Presbytery shall also appoint an Adviser to work with the Assessor on the Disciplinary Complaint. The Adviser shall provide support to the Assessor and may be present at any interview conducted by the Assessor. Before taking any decisions under this Act, the Assessor shall consult with the Adviser.

(2) The Assessor will consider the Disciplinary Complaint and, if necessary, obtain any additional information, to allow the Assessor to decide whether the Disciplinary Complaint falls into one or more of the following categories:

(a) it is in a form which cannot sensibly be responded to, or
(b) it is otherwise an abuse of process, or
(c) it is frivolous or vexatious, or
(d) it has no reasonable prospect of providing grounds for disciplinary action in terms of this Act, or
(e) it would be more appropriately dealt with by the Presbytery under the Complaints Procedure, or
(f) it is suitable to be dealt with in terms of the Alternative Dispute Resolution Processes Act 2014 (Act VI 2014) or otherwise by mediation, conciliation or facilitated conversation or similar processes, or
(g) the Presbytery has no jurisdiction to consider the Disciplinary Complaint, or
(h) it cannot be pursued because a Complainer is not willing to be identified to the Respondent, or is not willing to disclose a document to the Respondent and there is no other evidence supporting the Disciplinary Complaint.

19. (1) Within twenty eight (28) days of the receipt of the Referral by the Assessor, he or she shall decide whether the Disciplinary Complaint satisfies any of the criteria set out in section 18(2). The Assessor shall confirm this in a report sent to the Presbytery, the Complainer (if any) and the Respondent. Where the Assessor decides that the Disciplinary Complaint satisfies any of the criteria set out in section 18(2), he or she shall also state whether the Disciplinary Complaint should be considered by Presbytery in terms of the Complaints Procedure. When the Assessor decides that the Disciplinary Complaint satisfies any of the criteria set out in section 18(2) the Assessor shall, at the same time advise the Presbytery and the Complainer of their right to a Procedural Review.

(2) For the avoidance of doubt, a decision by the Assessor that the Disciplinary Complaint satisfies any of the criteria set out in section 18(2) shall not be subject to appeal or dissent and complaint or any other form of review, other than a Procedural Review carried out by a Reviewer.

(3) With respect to a Procedural Review the following will apply:

(a) A Procedural Review must be requested by the Presbytery or the Complainer within fourteen (14) days of the date upon which the Assessor reported his or her decision to the Presbytery and the Complainer.
(b) A Procedural Review can be sought only on one or both of the following grounds: (a) that there was an irregularity in the process followed by the Assessor which materially influenced his or her decision; and/or, (b) that his or her decision was materially influenced by incorrect material fact.

(c) Such request shall be made by sending or delivering a written request to the Presbytery Clerk, and such request shall also intimate, in brief, specific, numbered propositions, the grounds in subsection (b) above relied on by the Presbytery or the Complainer.

(d) In the event that the Reviewer determines that one or both of the foregoing grounds have been established, he or she shall order a new Referral to be made to a different Assessor.

(e) In the event that the Reviewer determines that neither of the foregoing grounds has been established, the decision of the Assessor shall be deemed to have become final.

(f) The decision of the Reviewer as regards the Procedural Review shall be final and not subject to appeal, dissent and complaint or any other form of further review.

Part 6  ADMINISTRATIVE SUSPENSION

20. (1) At any time after a Disciplinary Complaint comes to the notice of the Presbytery, the Presbytery, or any Committee or individuals holding delegated powers from Presbytery so to do, shall be entitled, at its or their discretion, to impose an Administrative Suspension on the Respondent. This entitlement shall be without prejudice to the general power of Presbytery described in section 13.

(2) In the event that the Respondent is a Minister and he or she has been Administratively Suspended, the Presbytery shall appoint an Interim Moderator to the Respondent’s charge.

(3) Without prejudice to section 20(1), where the Respondent is a Candidate or Probationer in terms of section 10(6) or 10(7), the Council may impose an Administrative Suspension on the Respondent in respect of their candidature or Probationer training, as the case may be, pending a decision in terms of section 20(1) by the Presbytery or any Committee or individuals holding delegated powers from Presbytery, as the case may be. The Secretary of the Council shall advise the relevant Presbytery of any Administrative Suspension so imposed.

(4) If the Respondent falls within section 10(1), (2), (3), (4), (5), (6), (7) or (10) then the Presbytery shall advise the Secretary to the Council of the fact that an Administrative Suspension has been imposed.

(5) Once an Administrative Suspension has been imposed, it shall be presumed to continue until such time as the circumstances leading to its imposition no longer pertain; but the Administrative Suspension shall be subject to review, upon request by the Respondent or the Assessor, at three-monthly intervals from the date of its
imposition. Each such review shall be undertaken and decided upon by the Convener, whom failing the Vice-Convener, of the Legal Questions Committee, who shall have power to lift the Administrative Suspension upon cause shown by the Respondent or the Assessor. In making a decision, the Convener or Vice-Convener of the Legal Questions Committee shall first consult with the Solicitor of the Church and the Principal Clerk.

Part 7 INVESTIGATORY PROCEEDINGS

21. (1) If the Assessor, following consideration in terms of section 19(1) decides to commence Investigatory Proceedings, he or she shall:

(a) intimate in writing to the Respondent the terms of the Disciplinary Complaint and the nature of the evidence purported to exist in support of it;
(b) invite the Respondent to provide a written answer to the Disciplinary Complaint to the Assessor within fourteen (14) days of the Respondent’s receipt of such intimation, always provided that the Respondent shall not be obliged to answer; and
(c) give notice to the Presbytery of the commencement of Investigatory Proceedings.

22. (1) Within fourteen (14) days of the Assessor’s receipt of the Respondent’s written answer to the Disciplinary Complaint (or if no such written answer is received, within twenty eight (28) days of the likely receipt by the Respondent of the Assessor’s invitation in terms of section 21(1)(b)), the Assessor must decide which one of the following courses of action to take:

(a) to determine that the Respondent has no case to answer in terms of this Act;
(b) to offer the Respondent, with the consent and concurrence in writing, of a Convener (or Vice-Convener) of the Discipline Tribunal an opportunity to consent to a Censure, available for acceptance for a period of twenty eight (28) days, in order to conclude the Investigatory Proceedings, the Respondent having received legal advice; or
(c) to continue to investigate the Disciplinary Complaint.

(2) In the case of a decision by the Assessor in terms of section 22(1)(a), such decision shall not be subject to appeal or dissent and complaint or any other form of review, other than a Procedural Review carried out by a Reviewer on the same basis as set out in section 19(3). The Assessor shall confirm any decision in terms of section 22(1)(a) in a report sent to the Presbytery, the Complainer (if any) and the Respondent, which report shall include a statement of the reasons for his or her decision. In intimating his or her decision and the reasons, the Assessor shall advise the Presbytery and the Complainer (if any) of their right to a Procedural Review.

23. An offer of a Censure with consent, in terms of section 22(1)(b) shall be open for acceptance by the Respondent within a period of twenty eight (28) days from the date of issue and if not so accepted shall be deemed to be refused. If such an offer is accepted, the Censure with consent shall be recorded as is appropriate, depending on
the person and on the type of Censure with consent, according to the general scheme specified in Part 10 and in each case, the recording of the Censure with consent shall conclude the Investigatory Proceedings, subject only to further procedure under Part 13.

24. (1) In the event that the Assessor decides to continue to investigate the Disciplinary Complaint in terms of section 22(1)(c), the Assessor shall carry out such investigations as he or she, in his or her sole discretion, deems necessary to determine whether a Disciplinary Offence may have been committed. Subject to subsection (2), such investigations shall be concluded within twenty eight (28) days of the date on which the Assessor’s decision, in terms of section 22, is made.

(2) The Convener, whom failing the Vice-Convener, of the Legal Questions Committee shall have power, on cause shown by the Assessor or the Respondent, to grant a further period or periods for completion of the investigation. Reasons for the Convener’s or Vice-Convener’s decision shall be given. In making a decision, the Convener or Vice-Convener of the Legal Questions Committee shall first consult with the Solicitor of the Church and the Principal Clerk. No second or subsequent extension shall be granted without the Respondent being given the opportunity to make representations as to whether or not the extension should be granted.

(3) In all cases under this Act, the Assessor shall keep a record of the Investigatory Proceedings. The record shall comprise all evidence obtained by the Assessor including witness statements. The interviews conducted by the Assessor shall be digitally recorded.

25. If, in the course of the Investigatory Proceedings, an Assessor becomes aware of further allegations against the Respondent, which may constitute a Disciplinary Offence, then the Assessor shall proceed to consider and, if appropriate, investigate such allegations in terms of this Part.

26. At the conclusion of the Assessor’s investigation and before deciding whether to initiate Disciplinary Proceedings under Part 8, the Assessor shall again make known to the Respondent the substance of the Disciplinary Complaint being considered by the Assessor and the nature of the evidence existing in support of it and shall offer the Respondent the opportunity to make any answer thereto, in person or in writing; provided that he or she shall not be obliged to answer.

27. (1) Upon consideration of the Disciplinary Complaint and evidence submitted and of any answers given, the Assessor shall be entitled to resolve that no further investigation shall be carried out and that no Disciplinary Proceedings should be instituted if there is no _prima facie_ case to answer. In that event, the Assessor shall confirm this in a report sent to the Presbytery, the Complainer (if any) and the Respondent, which report shall include a statement of the reasons for his or her decision. In intimating his or her decision, the Assessor shall advise the Presbytery and the Complainer (if any) of their right to a Procedural Review.

(2) At such time, the Assessor may also issue guidance to the Respondent regarding his or her conduct. Such guidance will be kept in the Record referred to in section...
24(3) and will also be reported to the Secretary of the Council and recorded by him or her in a personal file for the Respondent.

(3) For the avoidance of doubt, a decision not to initiate Disciplinary Proceedings against the Respondent, in relation to the whole or any part of a Complaint, shall not be subject to appeal or dissent and complaint or any other form of review other than a Procedural Review carried out by a Reviewer in terms of section 19(3).

(4) In the circumstances where either (i) no Procedural Review is requested within the time frame applicable and that time frame has expired, or (ii) a Procedural Review takes place and the decision of the Assessor is upheld, then Presbytery shall thereafter recall any Administrative Suspension imposed in terms of sections 13 or 20.

Part 8 DISCIPLINARY PROCEEDINGS

28. (1) In the event that the Assessor decides to initiate Disciplinary Proceedings, he or she shall prepare (a) a Notice of Complaint setting forth the alleged Disciplinary Offence or Disciplinary Offences (hereinafter referred to as “Charge” or “Charges”) in respect of which it is proposed that Disciplinary Proceedings should be commenced, and (b) a summary of the evidence, whether from witnesses, documents or otherwise, that is considered to support the Charge or Charges made.

(2) The Notice of Complaint will run in the name of the Presbytery and will be in such form that, in respect of each Disciplinary Offence, there is set out the date(s), time(s) and place(s) of the Disciplinary Offence(s) and the facts necessary to constitute the Disciplinary Offence(s).

(3) The Assessor shall also intimate to Presbytery his or her decision to initiate Disciplinary Proceedings.

29. (1) The Assessor shall initiate Disciplinary Proceedings by lodging with the Solicitor of the Church:
   (a) the Notice of Complaint;
   (b) a list of the names and addresses of the witnesses to be adduced by the Assessor;
   (c) a list of the productions to be put in evidence by the Assessor;
   (d) the summary of the evidence referred to in section 28(1)(b); and
   (e) a request to the Solicitor to appoint a first diet and cite the Respondent to attend the first diet.

(2) The Solicitor of the Church shall notify the Convener and Vice-Convener of the Legal Questions Committee that a Notice of Complaint has been lodged, shall arrange for the selection of a Discipline Tribunal and shall thereafter:
   (a) fix a date for the first diet, being a date not earlier than fourteen days after the lodging of the Assessor’s request under section 29(1)(e); and
serve on the Respondent, by both first class and “signed for” post or personally by means of a Sheriff Officer, the items listed at sections 29(a) to (d), and

c) intimate the first diet and a list of the names of those selected to serve on the Discipline Tribunal to the Respondent.

In intimating the date of the first diet, the Solicitor of the Church shall draw to the attention of the Respondent the provisions of section 32 as to failure to appear.

(3) In the event that service of the Notice of Complaint has not been timeously or regularly effected, the Solicitor shall:

(a) re-serve on the Respondent the items listed at sections 29(a) to (d); and

(b) fix a fresh date for the first diet, being a date not earlier than fourteen days after the date of re-service in terms of section 29(3)(a).

30. (1) The first diet will be held before the Discipline Tribunal.

(2) At the first diet the Respondent may challenge:

(a) the competency or relevancy of the Notice of Complaint; or

(b) the constitution of the Discipline Tribunal:

provided that, in respect of any challenge to the competency or relevancy of the Notice of Complaint, intimation of the ground of such challenge must be given to the Assessor and the Secretary to the Discipline Tribunal not later than fourteen days before the diet is due to be held, and any challenge to constitution shall be disposed of immediately, unless the Discipline Tribunal consider that the matter cannot be decided without proof.

(3) At the first diet the Discipline Tribunal may:

(a) adjourn the first diet for any reason;

(b) allow the Notice of Complaint to be amended by deletion, alteration or addition, so as to cure any error or defect in it or meet any objection to it, on such conditions as they think fit;

(c) sustain or repel any challenge to the competency or relevancy of the Notice of Complaint in whole or in part;

(d) defer consideration of such challenge until after proof,

(e) deal with any practical and/or procedural matters related to the Notice of Complaint which can usefully and expeditiously be dealt with at the first diet. The Discipline Tribunal shall have the power to make any order or determination which is just and reasonable, which order or determination shall be final.

(4) After disposal or deferment of any challenge referred to in subsection (2) above, the Respondent shall be required to state whether he or she admits or denies each of the Charges, if any, which remain on the Notice of Complaint.

(5) Where the Respondent admits all the individual Charges brought, the Discipline Tribunal shall, after hearing and considering any statement by the Assessor and any statement by or on behalf of the Respondent in mitigation, pass such Censure upon the Respondent as appears to it appropriate or discharge the Respondent and shall record its decision in a document signed by the Convener. The provisions of section 37(1) shall apply.

(6) Where the Respondent denies some, or all, of the Charges brought, the Discipline Tribunal will appoint a date for the proof of those charges which are denied and
defer consideration of the question of Censure in respect of any Charges which are admitted, until close of the proof; provided that the Assessor may:
(a) accept any denial of any individual Charge; or
(b) accept an admission of an individual Charge in part;
in which case the proof will be confined to those Charges which are denied and which denial is not accepted by the Assessor.

(7) The date appointed for proof shall be not less than twenty eight (28) days nor more than fifty six (56) days after the first diet or any adjournment thereof, but the Discipline Tribunal shall have power, upon cause shown by either party, to fix a date outwith that period, or to adjourn the proof diet.

(8) Where the Discipline Tribunal has appointed a date for proof, it may make an Order requiring the Respondent to intimate to the Secretary to the Discipline Tribunal and to the Assessor, within such period as they shall specify, a list of the names and addresses of the witnesses to be adduced and a list with copies of the productions to be put in evidence by him or her.

(9) Where (a) the Respondent has intimated in writing to the Assessor and to the Secretary to the Discipline Tribunal (i) that there is no challenge in terms of section 30(2) and (ii) that the Charge or Charges on the Notice of Complaint are all denied, and (b) both the Assessor and the Respondent intimate in writing to the Secretary to the Discipline Tribunal that there are no other matters which they wish to raise at the First Diet, it shall not be necessary to hold a First Diet and instead the Convener, Vice-Convener and Secretary of the Discipline Tribunal shall appoint a date for the proof of the Charge or Charges and make any Order in terms of section 30(8).

31. All proceedings in terms of Part 8 or Part 9 shall take place in public except (a) where either the Assessor or the Respondent request that and show cause why, the hearing, or part thereof, should be held in private; or (b) where the hearing of evidence from any person, or narration of facts thereof, in the opinion of the Discipline Tribunal, is likely to prejudice morals or public order, to affect adversely the interests of justice or the private life of the parties or in any other special circumstances where publicity would prejudice the interests of justice, provided that, in any event, the Discipline Tribunal shall restrict publicity only to the extent which it deems to be strictly necessary.

32. If a party fails to attend or be represented at the time and place fixed for the proof, without cause shown, the Discipline Tribunal may (a) adjourn the proof to a later date; (b) if that party is the Assessor, dismiss the Notice of Complaint; or (c) if that party is the Respondent, proceed to hear the proof in his or her absence, to reach a decision thereon and if appropriate, to pass Censure.

33. (1) Witnesses shall be required by the Convener to take the oath or to affirm prior to giving evidence.
(2) The proceedings at the proof may be digitally recorded.
(3) If produced by either party, the notices issued by the Assessor in terms of section 21(1)(a) and/or section 23 and any answers thereto by the Respondent, shall be admissible in evidence.
(4) In subsection (2) “the proceedings at the proof” shall, unless the Discipline Tribunal directs otherwise, mean the whole proceedings to the close of the proof, including, without prejudice to that generality: (a) discussions on all matters arising in the course of the proof and the decision of the Discipline Tribunal on any such matter,
(b) the evidence led at the proof, and (c) the speeches of the parties or their solicitors on their behalf.

34. Each party shall be entitled to give evidence, to call witnesses, to question any witness and to address the Discipline Tribunal, provided that the Respondent shall have the right to speak last.

35. Subject to sections 33 and 34, the conduct of the proof shall be in such manner as the Discipline Tribunal considers most appropriate for the determination of the issues before it and to the just handling of the proceedings.

36. (1) No proof shall fail, or the ends of justice be allowed to be defeated, by reason only of any discrepancy between the Notice of Complaint and the evidence.

(2) It shall be competent, at any time prior to the decision of the Discipline Tribunal, unless the Discipline Tribunal see just cause to the contrary, to amend the Notice of Complaint by deletion, alteration or addition, so as to:
   (a) cure any error or defect in it;
   (b) meet any objection to it; or
   (c) cure any discrepancy or variance between the Notice of Complaint and the evidence,
   provided that no amendment to the Notice of Complaint may change the character of the Charge or Charges.

(3) If it appears to the Discipline Tribunal that the Respondent may, in any way, be prejudiced in his or her defence on the merits of the Charges by any amendment made under this section, the Discipline Tribunal shall grant such remedy to the Respondent by adjournment, or otherwise, as appears to the Discipline Tribunal to be just.

37. (1) At the close of the proof, the Discipline Tribunal shall give its decision on whether and if so to what extent, each Charge on the Notice of Complaint has been established and the decision shall be recorded in a document signed by the Convener, provided that the Discipline Tribunal may take time to consider its decision and adjourn the diet of proof to a later date for that purpose.

(2) Upon giving its decision and, in the event of any Charge being found to be established or admitted (including, without prejudice to that generality, those Charges admitted and deferred in terms of section 30(6)), after hearing and considering any statement by the Assessor and the Respondent in mitigation, the Discipline Tribunal shall pass such Censure, if any, upon the Respondent as appears to it appropriate according to the circumstances of each charge. In determining the appropriate Censure, no account shall be taken of any prior period of Administrative Suspension.

(3) After giving its decision in terms of subsection (1), the Discipline Tribunal shall set forth in a document (a) those findings in fact which it has made and (b) the Censure, if any, which it has imposed, giving reasons for both elements of its decision. The Discipline Tribunal shall also record the majority by which its decision in respect of (i) each Charge, and (ii) Censure, or absolute discharge, was reached.

(4) The Secretary of the Discipline Tribunal shall send the documents, referred to in sections 37(1) and 37(3), to each of the parties, the Session Clerk(s) of the congregation(s) concerned, the Presbytery Clerk, the Principal Clerk of the General Assembly and the Secretary of the Council (save where the Respondent...
is one referred to in section 10(8) or 10(9)), and shall make them available for public inspection.

Part 9 ACCELERATED PROCEDURE WHERE THE RESPONDENT DESIRES TO ADMIT ALLEGATIONS

38. (1) If, at any stage of proceedings prior to the service of a Notice of Complaint, the Respondent indicates that he or she wishes to admit all, or any, of the allegations made against him or her, he or she shall be entitled so to intimate to the Assessor. Said admission must be in writing and signed by the Respondent. It should include a statement by the Respondent that he or she has received legal advice on the matter. The admission shall not be accepted by the Assessor in the absence of a statement that legal advice has been received. In the event that the Assessor is willing to accept the said admission, either immediately or after making such other enquiries or investigations he or she considers appropriate, the Assessor shall, as soon as practicable, proceed to adjust and agree a Joint Minute with the Respondent, or his or her solicitor. The said Joint Minute, which shall be signed by or on behalf of both parties, shall set out:

(a) the Disciplinary Offence or Disciplinary Offences which are admitted;
(b) an agreed summary of the material facts; and
(c) such other information as it is agreed should be before the Discipline Tribunal to assist it in reaching an appropriate disposal of the case.

In the event that the Assessor is either unwilling to accept the said admission or, following upon discussions with the Respondent or his or her solicitor, he or she concludes that it will not be possible to agree the terms of the Joint Minute, he or she shall be entitled to resume their investigations, and if appropriate, proceed to prosecute the case in accordance with the other provisions of this Act.

(2) The Assessor shall, after signature thereof, transmit the Joint Minute to the Solicitor of the Church, who shall proceed to notify the Convener and Vice-Convener of the Legal Questions Committee and arrange for the selection of a Discipline Tribunal. The Solicitor shall thereafter, in name of the Tribunal, fix a date for a diet before the Tribunal, being a date not earlier than fourteen (14) days after the date of intimation thereof. The Solicitor shall intimate the said date to the Assessor and the Respondent and his or her solicitor.

(3) At the said diet, the Discipline Tribunal shall, after hearing and considering any statement by the Assessor and any statement by the Respondent in mitigation, pass such Censure upon the Respondent as appears to it appropriate or discharge the Respondent and shall record its decision, with brief reasons therefor, in a document signed by the Convener. The Tribunal shall be entitled *inter alia* to take into account the fact that an early plea was made and mitigate any Censure as it sees fit. In determining the appropriate Censure, no account shall be taken of any prior period of Administrative Suspension.

(4) In the event that the Respondent at the diet withdraws or modifies, to any extent, the admission previously made to all, or any, of the Disciplinary Offences, unless
this is accepted by both the Assessor and the Tribunal, the diet shall be adjourned and thereafter the case shall proceed, as directed by the Tribunal, in accordance with the other provisions of this Act.

Part 10 CENSURES

39. The Discipline Tribunal shall dispose of all discipline cases as seems appropriate to it. In reaching a decision as to a suitable Censure, it shall not take into account any prior period of Administrative Suspension. It shall, however, take into account any previous Censures imposed on the Respondent by the Discipline Tribunal or any matter, which it considers relevant, in any personal file for the Respondent, held by the Council, which shall be made available to it by the Secretary of the Council.

40. The Censures available to the Tribunal, in respect of any Respondent, shall comprise the following or any combination thereof:

(1) Ministers of Word and Sacrament and Deacons

(i) Reprimand, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:

(a) the Presbytery and recorded by it in a record apart, and
(b) the Secretary of the Council and recorded by him or her in a personal file for the Respondent.

(ii) Instruction regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:

(a) the Presbytery and recorded by it in a record apart; and
(b) the Secretary of the Council and recorded by him or her in a personal file for the Respondent.

Disobedience of an Instruction shall constitute a Disciplinary Offence.

(iii) Suspension from the status and functions of ministry either (a) for a fixed period of up to three years\(^{22}\), or (b) without limit of time, but subject to a minimum period of suspension. Such suspension shall be reported to the Secretary to the Council. In all cases, suspension will result in the re-categorisation of the Respondent to Category S in the Register of Ministry and suspension may only be lifted in accordance with section 28 of the Registration of Ministries Act (Act II 2017) upon application by the Respondent. In the event of an individual, who is suspended,

\(^{22}\) This to tie in with the Registration of Ministries Act and the way it deals with those who are out of parish ministry for over three years and who would at that point lose their category “O” registration
having his or her pastoral tie severed, in no circumstances shall he or she be eligible to be re-appointed to the same charge.

(iv) **Removal** of the status and functions of ministry. Such removal of status shall be reported to the Secretary to the Council. In accordance with section 34 of the Registration of Ministries Act (Act II 2017), the Respondent’s name shall immediately be removed from the Register of Ministry and recorded in List D. In all cases, restoration of status can only be sought through application in accordance with the Admission and Readmission of Ministers Act (Act IX 2002). No such application may be lodged until a period of at least four years has elapsed since the date of removal of the Respondent’s status and functions.

(2) **Graduate Candidates**

(i) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:

(a) the Presbytery and recorded by it in a record apart, and
(b) the Secretary of the Council and recorded by him or her in a personal file for the Respondent.

(ii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:

(a) the Presbytery and recorded by it in a record apart; and
(b) the Secretary of the Council and recorded by him or her in a personal file for the Respondent.

Disobedience of an Instruction shall constitute a Disciplinary Offence.

(iii) **Suspension** from status for a specified minimum period of up to three years, subject to restoration by the Council in consultation with the Presbytery, upon petition by the Respondent following the expiry of such period. The Council shall take into account the length of suspension served and may insist upon such discernment, assessment and training processes and placements as it sees fit.

(iv) **Removal** of status, subject to restoration by the Council in consultation with the Presbytery, upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed since the date of removal of such status. The Council shall take into account the length of removal and may insist on such discernment, assessment and training processes and placements as it sees fit.

(3) **Licentiates**
(i) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:

(a) the Presbytery and recorded by it in a record apart, and
(b) the Secretary of the Council and recorded by him or her in a personal file for the Respondent.

(ii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:

(a) the Presbytery and recorded by it in a record apart; and
(b) the Secretary of the Council and recorded by him or her in a personal file for the Respondent.

Disobedience of an Instruction shall constitute a Disciplinary Offence

(iii) **Suspension** from the Roll of Licentiates for a specified minimum period of up to three years, subject to restoration by the Council, in consultation with the Presbytery, upon petition by the Respondent following the expiry of such period. The Council shall take into account the length of suspension served and may insist upon such discernment, assessment and training processes and placements as it sees fit.

(iv) **Removal** from the Roll of Licentiates, subject to restoration by the Council, in consultation with the Presbytery, upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed since the date of removal from the Roll. The Council shall take into account the length of removal and may insist on such discernment, assessment and training processes and placements as it sees fit.

(4) **Candidates and Probationers**

(i) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:

(a) the Presbytery and recorded by it in a record apart, and
(b) the Secretary of the Council and recorded by him or her in a personal file for the Respondent.

(ii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
Disobedience of an Instruction shall constitute a Disciplinary Offence.

(iii) **Suspension** from status for a specified minimum period of up to three years, subject to restoration by the Council in consultation with the Presbytery, upon petition by the Respondent following the expiry of such period. The Council shall take into account the length of suspension served and may insist upon such discernment, assessment and training processes and placements as it sees fit.

(iv) **Removal** of status, subject to restoration by the Council in consultation with the Presbytery, upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed since the date of removal of such status. The Council shall take into account the length of removal and may insist on such discernment, assessment and training processes and placements as it sees fit.

(5) **Readers**

(i) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:

(a) the Presbytery and recorded by it in a record apart; and
(b) the Secretary of the Council and recorded by him or her in a personal file for the Respondent.

(ii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:

(a) the Presbytery and recorded by it in a record apart; and
(b) the Secretary of the Council and recorded by him or her in a personal file for the Respondent.

Disobedience of an Instruction shall constitute a Disciplinary Offence.

(iii) **Suspension** from the status and duties of the Readership for a specified minimum period of up to three years, subject to restoration by the Presbytery (but only with the agreement of the Council) upon petition by the Respondent following the expiry of such period. In considering whether the suspension shall be lifted, the Council shall take into account the length of suspension served and may insist on such discernment, assessment and training processes and placements as it sees fit.
(iv) **Removal** of the status and duties of the Readership, subject to restoration by the Presbytery (but only with the agreement of the Council) upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed from the date of removal of status and duties. In considering whether the petitioner should be restored to such status and duties, the Council shall take into account the length of suspension served and may insist upon such discernment, assessment and training processes and placements as it sees fit.

(6) **Elders and other Office Bearers**

(i) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:

(a) the Kirk Session and recorded by it in a record apart, and  
(b) the Presbytery and recorded by it in a record apart.

(ii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:

(a) the Kirk Session and recorded by it in a record apart; and  
(b) the Presbytery and recorded by it in a record apart.

Disobedience of an Instruction shall constitute a Disciplinary Offence.

(iii) **Suspension** from membership of a Kirk Session and from holding any other office within a congregation for a specified minimum period of up to three years, subject to restoration by the Presbytery, with the agreement of the Kirk Session, upon petition by the Respondent following the expiry of such period.

Such suspension shall be reported by the Tribunal to:

(a) the Kirk Session and recorded by it in a record apart; and  
(b) the Presbytery and recorded by it in a record apart.

An Elder, having been restored by Presbytery following suspension and being invited to become a member of another Kirk Session (i.e. not the one from which he/she was suspended), shall inform both the Session Clerk and the Presbytery Clerk of the circumstances of his/her suspension and may only be so admitted if the Kirk Session in question then agrees to proceed.

(iv) **Removal** from the status and office of Elder, subject to restoration by the Presbytery with the agreement of the Kirk Session upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed from the date of removal of status and office.
Such removal shall be reported by the Tribunal to:
(a) the Kirk Session, and recorded by it in a record apart; and
(b) the Presbytery and recorded by it in a record apart.

A person, having had the status of Elder restored following removal and being invited to become a member of another Kirk Session (i.e. not the one from which he/she was removed) shall inform both the Session Clerk and the Presbytery Clerk of the circumstances of his/her removal. They shall not accept such an invitation until a period of at least four years has elapsed since their removal from such status.

(v) In the case of Office Bearers who are not Elders, **Removal** from a particular office held.

Such removal shall be reported by the Tribunal to:
(a) the Kirk Session and recorded by it in a record apart; and
(b) the Presbytery and recorded by it in a record apart.

An Office Bearer who is not an Elder and who is subsequently invited to take office in another congregation, shall inform both the Session Clerk and the Presbytery Clerk of the circumstances of his/her removal and may only be appointed to that office if the Kirk Session in question then agrees to it.

(7) **Persons holding Certificates of Eligibility**

(i) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:

(a) the Presbytery and recorded by it in a record apart; and
(b) the Secretary of the Council and recorded by him or her in a personal file for the Respondent.

(ii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:

(a) the Presbytery and recorded by it in a record apart; and
(b) the Secretary of the Council and recorded by him or her in a personal file for the Respondent.

Disobedience of an Instruction shall constitute a Disciplinary Offence.

(iii) **Removal** of the Certificate of Eligibility, subject to grant of a new Certificate of Eligibility in terms of the Admission and Readmission of Ministers Act (Act IX 2002). Such removal shall be reported by the Tribunal to the Secretary of the
Council. No application for a new Certificate of Eligibility may be lodged until a period of at least four years has elapsed from the date of removal of the previous Certificate of Eligibility.

Part 11 DISCIPLINE TRIBUNAL: ADDITIONAL POWERS AND RULES OF PROCEDURE

41. Where, in the view of the Discipline Tribunal, it is necessary to do so in the interests of justice, the Tribunal shall have power to order either party to produce, within such period as the Tribunal shall consider reasonable, any document or other article in that party’s possession and any such document or other article shall be a Production in the proceedings and may be founded upon. Such a power shall be exercisable at any time up to the conclusion of the Proof.

42. The Discipline Tribunal may relieve a party from the consequences of a failure to comply with a provision of this Act shown to be due to mistake, oversight or other excusable cause, on such conditions as the Tribunal thinks fit.

43. The Discipline Tribunal shall have power to make regulations concerning the practice and procedure to be followed in any proceedings brought before the Discipline Tribunal, in terms of this Act, provided that such regulations shall be laid before and be subject to alteration, revocation, amendment or modification by the General Assembly.

44. No member of the Discipline Tribunal shall participate in any proceedings brought by a Presbytery of which he or she is a member or within the bounds of which there is a congregation of which he or she is a communicant member. This section shall not apply to the Solicitor of the Church.

45. Any decision of the Discipline Tribunal may be taken by a majority of its members.

Part 12 APPEALS

46. (1) If either the Assessor or the Respondent is dissatisfied with any decision of the Discipline Tribunal, they may appeal to the Judicial Commission in terms of the Appeals Act (Act I 2014). No right of appeal or dissent and complaint shall be allowed in respect of any act or decision done or taken in terms of this Act, otherwise than in accordance with the provisions of this Act or the Appeals Act (Act I 2014).

(2) In the case of any appeal against the severity of Censure, taken by any party, it shall be open to the Judicial Commission to vary the Censure in the direction of greater severity or greater leniency. In varying any Censure, no account shall be taken by the Judicial Commission of any prior period of Administrative Suspension.

Part 13 IMPLEMENTATION OF DECISION/CENSURE AT PRESBYTERY

47. The Presbytery shall meet within not less than twenty-one (21) and not more than thirty-five (35) days after receiving intimation of the written decision of the Discipline Tribunal and shall implement the decision of the Discipline Tribunal. The Presbytery shall
similarly meet to take appropriate steps after a Respondent accepts a Censure with consent. If the Respondent is a parish minister:

(1) In the event that the decision has not involved Judicial Suspension or removal from office, it shall (a) lift any Administrative Suspension upon the individual concerned; (b) relieve the Interim Moderator of duty; and (c) undertake such steps in relation to other individuals and superintendence of its members and congregations as it finds necessary.

(2) In the event that the decision has involved a period of Judicial Suspension of less than six months, the Presbytery shall, at its meeting, confirm the appointment of an Interim Moderator or make a new appointment and shall undertake such steps against other individuals and superintendence of its members and congregations as it finds necessary.

(3) In the event that the decision has involved a period of Judicial Suspension of six months or more, or the removal of status of the Respondent, then: (i) the pastoral tie shall be severed; (ii) any parish of which the Respondent was minister shall be deemed to have become vacant on the date on which the written decision of the Discipline Tribunal was issued and (iii) any other ordained appointment which the Respondent held shall terminate on that date. The Presbytery shall, at its meeting, confirm the foregoing matters and it shall also confirm the appointment of an Interim Moderator or make a new appointment and shall undertake such steps against other individuals and superintendence of its members and congregations as it finds necessary.

In the event of an appeal being taken to the Judicial Commission against the decision of the Discipline Tribunal, (a) a Respondent, who is a parish minister, shall be entitled to remain in occupation of the manse pending the outcome of the appeal, and (b) the Presbytery shall meet again not less than twenty-one (21) and not more than thirty-five (35) days after receiving intimation of the written decision of the Judicial Commission and shall implement the decision of the Judicial Commission. The foregoing sections of this section 47 shall then apply mutatis mutandis. Where the decision of the Judicial Commission involves a change to a Censure imposed on a Respondent, who is a parish minister, (a) the Presbytery shall implement the foregoing sections of this section 47 so far as practicable and may seek the advice of the Principal Clerk as to dealing with any practical consequences of the Judicial Commission’s decision, and (b) where that change is from a Judicial Suspension of six months or more or a removal of status to a Judicial Suspension of less than six months such that the pastoral tie would not have been severed, then the Respondent shall be entitled to be compensated for stipend which should have been paid to him or her for the period from the date of the Discipline Tribunal’s decision until the earlier of (a) six months after the date of the Judicial Commission’s decision and (b) the date upon which the Respondent takes up remunerated employment or office.

Part 14 REPRESENTATION
48. The Assessor and the Respondent may be represented by a solicitor or counsel at any stage of the Investigatory Proceedings, Disciplinary Proceedings or appeal.

Part 15 EXPENSES

49. A Respondent shall be entitled to apply for financial assistance towards the costs of legal representation (a) where a Censure with consent is being accepted, and (b) in the conduct of Disciplinary Proceedings under Part 8 and any appeal following thereon, in each case in terms of the Legal Aid in Disciplinary Proceedings Regulations (Regulations I 2018).

Part 16 GUIDANCE ON THE IMPLEMENTATION AND OPERATION OF THIS ACT

50. The Legal Questions Committee shall issue Guidance on the implementation and operation of this Act, which shall be reviewed by it, from time to time.

Part 17 ADMINISTRATIVE SUPPORT FOR ASSESSORS

51. In cases where administrative assistance is provided to an Assessor, any cost incurred will normally require to be met by the Presbytery in question, although in cases where a Presbytery does not hold sufficient funds, application may be made via the Principal Clerk to the Legal Aid Fund.

Part 18 COMMENCEMENT DATE AND SAVING PROVISIONS

52. This Act shall come into force on 18 May 2019. Where a Special Committee of Presbytery was appointed under Act III 2001, Act IV 2007, Act V 2007 or Act I 2010 prior to 18 May 2019, such a matter shall continue until final disposal (including any appeal) in accordance with the law in force immediately before 18 May 2019. Otherwise all disciplinary matters, whether new or ongoing, shall from 18 May 2019 be dealt with under the provisions of this Act. Any disputes as to what that shall mean in practice for any particular matter shall be resolved by the Convener and Vice-Convener of the Legal Questions Committee, upon application by any of the Special Committee, an Assessor or the Respondent, as the case may be, and the decision of the Convener and Vice-Convener shall be final and binding. In making such decision, the Convener and Vice-Convener of the Legal Questions Committee shall first consult with the Solicitor of the Church and the Principal Clerk.

Part 19 CONSEQUENTIAL AMENDMENTS AND REPEALS

53. With effect from the date of passing of this Act, other Acts of the General Assembly shall be amended or repealed as follows:

ACT X 1932 (Election and Admission of Elders and Deacons)
After the first sentence of section 5 add:
“As part of this process, the Kirk Session shall require all elders-elect to confirm that they have not previously been ordained as an elder in the Church of Scotland and then resigned that status or had that status judicially removed.”

**ACT I 1988 (Congregations in Unsatisfactory State)**
*Delete the second sentence of section 17 and substitute “The procedure shall, except as herein provided, be as in section 46 of the Discipline Act (Act ZZ 2019).”*

**ACT III 2000 (Church Courts Act)**
*In section 37(1), delete “Act I 2010” and substitute “Act ZZ 2019”.*

**ACT III 2001 (Discipline of Ministry)**
*This Act is to be repealed save that it shall remain in force for matters where a Special Committee of Presbytery was appointed prior to [relevant date] – ie date of passing of Overture at GA 2019*

**ACT VI 2002 (Co-operation between Presbyteries)**
*In section 2, add at the end “and Act ZZ 2019”.*

**ACT IX 2002 (Admission and Re-admission of Ministers Act)**
*In section 4(2), after “Act III 2001 (as amended)” add “or Act ZZ 2019”.*

**ACT VIII 2003 (Vacancy Procedure)**
1.  *In section 3(b), add at the end “or section 40 of Act ZZ 2019”.*
2.  *In section 18(6) add at the end “or the Discipline Act (Act ZZ 2019).”*

**ACT X 2004 (Selection and Training for Full-Time Ministry)**
*At the start of section 23, add: “Subject always to the provisions of the Discipline Act (Act ZZ 2019), which shall apply in respect of a Disciplinary Complaint (as that term is defined in the Discipline Act) relating to a Candidate, Probationer or Graduate Candidate (as those terms are used in this Act),”*

**ACT IV 2007 (Protection against Bullying), ACT V 2007 (Protection against Discrimination) and ACT I 2010 (Discipline of Elders, Readers and Office-Bearers)**
*These Acts are to be repealed save that they shall remain in force for matters where a Special Committee of Presbytery was appointed prior to [relevant date] – ie date of passing of Overture at GA 2019*

**ACT IX 2011 (Ordained Local Ministry)**
*At the start of section 18, add: “Subject always to the provisions of the Discipline Act (Act ZZ 2019), which shall apply in respect of a Disciplinary Complaint (as that term is defined in the Discipline Act) relating to a Candidate, Probationer or Graduate Candidate (as those terms are used in this Act),”*

**ACT I 2014 (Appeals)**
1. Add a further definition to section 1, “Definitions and Interpretation” as follows:

“Discipline Tribunal” means a Discipline Tribunal constituted under the provisions of the Discipline Act (Act ZZ 2019).

2. Delete the existing section 4(3) and substitute the following:

“(3) The Judicial Commission shall hear the following cases:
   (i) Appeals under the Discipline of Ministry Act (Act III 2001), the Protection against Bullying Act (Act IV 2007), the Protection against Discrimination Act (Act V 2007), the Discipline of Elders, Readers and Office-Bearers Act (Act I 2010) and the Discipline Act (Act ZZ 2019), being appeals against the decisions of the Presbyterial Commission and of Discipline Tribunals in discipline cases, except in matters of doctrine;
   (ii) Appeals in all cases arising under the Congregations in an Unsatisfactory State Act (Act I 1988); and
   (iii) Appeals in Personal Cases.
   For the avoidance of doubt, the Judicial Commission shall not hear appeals to the Ministries Appeal Panel in accordance with Act VI 2007.”

3. Delete the existing Part 3 and substitute the following:

“PART 3: THE JUDICIAL COMMISSION
22. Appointment of members of the Judicial Panel
   (1) There shall be a pool of persons, known as the Judicial Panel, from which there shall be drawn the persons to serve on the Discipline Tribunal and the Judicial Commission. Members of the pool may also serve as Reviewers under the Discipline Act (Act ZZ 2019).
   (2) The Judicial Panel shall comprise twenty people being ministers, elders and deacons nominated by the Nomination Committee and appointed by the General Assembly. All members of the Judicial Panel shall be qualified to practise as lawyers or shall be experienced in the law and practice of the Church.
   (3) The members of the Judicial Panel shall initially be appointed for a term of four years, and shall be eligible for reappointment for further terms of four years.
   (4) In the event of a member of the Judicial Panel approaching the end of their current term of appointment and not wishing to be reappointed but being then engaged in the hearing of a case or an appeal, he or she shall continue in office, but only until the Discipline Tribunal or the Judicial Commission has recorded its decision in the case or appeal in question, as the case may be.
   (5) The Procurator of the Church shall not be eligible for inclusion in the Judicial Panel but may be requested to attend a sitting of the Judicial Commission if it is so determined at the Appeal Management Hearing referred to in Schedule 2.

23. Constitution of the Judicial Commission
Whenever a sitting of the Judicial Commission is required, the Clerks of Assembly shall select the following persons:
   (iii) Subject to the provisions of section 23(1) three persons, including at least one minister or deacon and one elder, all selected at random from the Judicial Panel; and
   (iv) A Convener and a Vice-Convener, from those appointed under section 16 below.
No person who has been selected for the Discipline Tribunal for a particular matter shall thereafter be selected for the Judicial Commission for the same matter.

24. Conveners & Vice-Conveners of the Discipline Tribunal and the Judicial Commission
(1) The General Assembly, on the nomination of the Nomination Committee, and in accordance with the Standing Orders of the General Assembly, shall appoint up to twelve persons to be Conveners and/or Vice-Conveners of the Discipline Tribunal and the Judicial Commission, all of whom shall be qualified to practise as lawyers or shall be persons experienced in the law and practice of the Church.
(2) Each sitting of the Discipline Tribunal shall be chaired by a Convener so appointed, or by a Vice-Convener so appointed when one is required according to the Discipline Act (Act ZZ 2019).
(3) Each sitting of the Judicial Commission shall be chaired by either a Convener or a Vice-Convener so appointed.
(4) The person who chairs a sitting (or hearing) of the Discipline Tribunal or Judicial Commission shall have a casting vote.

25. Quorum
The quorum of the Judicial Commission shall be three persons.

26. Sittings
Sittings of the Judicial Commission shall be called by the Principal Clerk.

27. Report to the General Assembly
A Minute of proceedings of the Judicial Commission shall be incorporated in a written report to the General Assembly, but shall not be subject to review by the General Assembly.

28. Relation to Legislation
The Judicial Commission shall act in accordance with the Constitution of the Church and the Acts of the General Assembly and nothing in this Act shall be construed as conferring power to contravene or amend existing legislation, or to legislate."

4. In paragraph 16.1 of Schedule 2, after “Act III 2001” add “, the Discipline Act (Act ZZ 2019) and the Legal Aid in Disciplinary Proceedings Regulations (Regs I 2018)”

ACT II 2017 (Registration of Ministries)
1. In sections 11, 12 and 13, in the wording for category S, after “Discipline of Ministry Act (Act III 2001)” add “or the Discipline Act (Act ZZ 2019)” and after “Act III 2001” in the last line, add “or Act ZZ 2019”.

2. In paragraphs 2(1) and 2(2) of Schedule 2, after “(Act III 2001)” add “or section 40 of the Discipline Act (Act ZZ 2019)”.

3. In paragraph 2(2)(i) of Schedule 2, after the words “Presbyterial Commission” add “or Discipline Tribunal, as the case may be,”.
V TRANSFER BETWEEN MINISTRIES ACT (ACT V 2019)

Edinburgh, 23 May 2019, Session 17

The General Assembly hereby enact and ordain as follows:

Definitions

1. For the purposes of this Act and the Schedule attached hereto:
   (a) “applicant” means the person applying for a transfer;
   (b) “Assessment Conference” means an assessment of the applicant by a body of trained Assessors in a conference setting as referred to in more detail in Act X 2004;
   (c) “Assessment Panel” means assessment in the form of (i) an interview with a psychologist and (ii) an interview with two national assessors;
   (d) “Auxiliary Ministry” means the ministry referred to in Act XIII 2003 and “Auxiliary Minister” shall be construed accordingly, but in each case subject always to the provisions of Act IX 2011;
   (e) “Candidate” means a person who has been both accepted by the Committee and nominated by their Presbytery, and in the context of this Act is used in respect of a person who has applied to transfer and who in terms of this Act has been accepted for training for the Ordained National Ministry, the Ordained Local Ministry or the Diaconate;
   (f) “Committee” means the Committee to which the Council has delegated matters relating to education and training of ministers, readers and deacons, currently being the Education and Support Committee;
   (g) “Council” means the Ministries Council;
   (h) “Diaconate” means the ministry referred to in Act VIII 2010 and “Deacon” shall be construed accordingly;
   (i) “Local Mentor” means the person chosen by the Committee who mentors the applicant during a Period of Discernment;
   (j) “Local Review means a review undertaken by a group consisting of one Assessor appointed by the Council, the Local Mentor and the Presbytery Assessor;
   (k) “Ordained Local Ministry” means the ministry referred to in Act IX 2011 and “Ordained Local Minister” shall be construed accordingly;
   (l) “Ordained National Ministry” means the ministry referred to in Act X 2004 and “Ordained National Minister” shall be construed accordingly;
   (m) “Period of Discernment” means time spent on placement with a Local Mentor and Presbytery Assessor exploring the nature of the applicant’s call and gifting;
   (n) “Presbytery Assessor” means the person chosen by Presbytery who supports the Local Mentor and applicant throughout the Period of Discernment;
   (o) “Prospective Candidate” means a person who has been accepted by the Committee and is awaiting the outcome of their application to Presbytery for nomination;
   (p) “Readership” means the ministry referred to in Act XVII 1992 and “Reader” shall be construed accordingly;
   (q) “recognised ministries of the Church” means the Ordained National Ministry, the Ordained Local Ministry, the Readership and the Diaconate.
“UK State Pension Age” means a person’s UK State Pension Age as determined at the relevant time by the UK Government’s calculations*23.

Transfer Routes and discernment, assessment and training requirements
2. The provisions of this Act are summarised in the table attached at Schedule A, which is attached for ease of reference. Where there is any conflict between the provisions of this Act contained in Sections A to D and those of the table in Schedule A, the provisions of this Act in Sections A to D shall prevail. Content of the table at Schedule A set out in bold is provided for information only.

Age Limit
3. Where the table attached at Schedule A indicates that an age limit applies on transfer, ie it states “Must complete by 10 years before UK State Retirement Age”, that means that an application will not be considered from any person who in all normal circumstances could not complete the prescribed course before 31 December in the year which is 10 years before the calendar year in which that person will reach UK State Pension Age. In the remaining provisions of this Act, this provision is referred to as “The Age Limit applies”. Where this Act is silent, the Age Limit does not apply.

Time limit for commencement of course
4. Where a person makes an application to transfer under this Act, or under previous similar legislation, and is successful, if that person does not then commence the prescribed course within three years of the date of their acceptance, their acceptance shall lapse, subject to the right for the person to apply to the Committee for an extension in exceptional circumstances. In determining an application for an extension, the Committee may in its discretion grant an extension, grant an extension subject to conditions, or refuse an extension.

Person must first be accepted as a Candidate/Reader in Training or be an ONM, OLM, DCS or Reader in service or retired
5. A person must first (a) be accepted as either (i) a candidate for the Ordained National Ministry, Ordained Local Ministry or Diaconate or (ii) as a Reader in Training, or (b) be an Ordained National Minister, an Ordained Local Minister, a Deacon or a Reader in service or retired, before being entitled to make an application to transfer under this Act, and may then apply to transfer only according to the following provisions of this Act.

SECTION A - TRANSFERS FROM THE ORDAINED LOCAL MINISTRY AND AUXILIARY MINISTRY
Transfer to being a Candidate for the Ordained National Ministry
6. (1) In a situation where an Ordained Local Minister (which for the purposes of this section only shall include a Candidate in training for Ordained Local Ministry) desires to transfer to the being a Candidate for the Ordained National Ministry, the following procedure shall apply:
   (a) The applicant shall inform the Council of his or her wish to transfer, and at

23 * Ascertained currently by the calculator found on the gov.uk website
the same time shall inform the Presbytery of the bounds;

(b) Having established eligibility, the Council shall arrange for the applicant to undergo an Assessment Panel;

(c) At the Assessment Panel attention shall be paid to the applicant’s reasons for his or her wish to transfer, in particular his or her gifts of leadership shall be assessed and his or her understanding of Ordained National Ministry shall be examined;

(d) If the applicant is accepted by the Assessment Panel as a Prospective Candidate for the Ordained National Ministry then the applicant will thereafter follow the appropriate procedure under Act X 2004, including, though not restricted to, the requirement for nomination by Presbytery as a Candidate for the Ordained National Ministry in terms of sections 7 to 11 of that Act, such requirements for education and training as may be determined by the Council, and such placements as may be required, having regard to all the circumstances in each particular case;

(e) If the applicant is not accepted by the Assessment Panel as a Prospective Candidate for the Ordained National Ministry then the applicant may apply again to transfer to Ordained National Ministry, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.

(f) If the applicant is not at any time accepted by the Assessment Panel as a Prospective Candidate for the Ordained National Ministry then such decision shall not affect the applicant’s status as an Ordained Local Minister or as a Candidate in training for the Ordained Local Ministry, as the case may be.

(g) A decision of the Assessment Panel not to accept a candidate as a Prospective Candidate for the Ordained National Ministry shall be final and binding on the applicant, subject only to subsection (e) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.

(2) The following additional provision shall apply to Ordained Local Ministers or Candidates in training for Ordained Local Ministry who seek to transfer to being a Candidate for the Ordained National Ministry: The Age Limit applies.

(3) In a situation where an Auxiliary Minister desires to transfer to being a Candidate for the Ordained National Ministry, the provisions of section 6(1) and 6(2) of this Act shall apply, as if the words “Auxiliary Minister” were substituted throughout for the words “Ordained Local Minister”.

Transfer to being a Candidate for the Diaconate

7. (1) In a situation where a Candidate in training for the Ordained Local Ministry desires to transfer to being a Candidate in training for the Diaconate, the following procedure shall apply:

(a) The applicant shall inform the Council of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;

(b) Following a Period of Discernment of three months’ duration, the applicant shall require to undergo Local Review. If the outcome of the Local Review is that the applicant is ready to proceed to Assessment Conference, the
applicant shall be assessed for the Diaconate in terms of Act X 2004 applied by section 3 of the Deacons Act (Act VIII 2010);

(c) If the applicant is accepted by the Assessment Conference as a Prospective Candidate for the Diaconate then the applicant will thereafter follow the appropriate procedure under Act VIII 2010, including, though not restricted to, the requirement for nomination by Presbytery as a Candidate for the Diaconate in terms of sections 7 to 11 of Act X 2004, such requirements for education and training as may be determined by the Council, and such placements as may be required, having regard to all the circumstances in each particular case;

(d) If the applicant is not accepted by the Assessment Conference as a Prospective Candidate for the Diaconate then the applicant may apply again to transfer to Diaconate, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.

(e) If the applicant is not at any time accepted by the Assessment Conference as a Prospective Candidate for the Diaconate then such decision shall not affect the applicant’s status as a Candidate in training for the Ordained Local Ministry.

(f) A decision of the Assessment Conference not to accept an applicant as a Prospective Candidate for the Diaconate shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.

(2) The following additional provision shall apply to a Candidate in training for the Ordained Local Ministry who seeks to transfer to being a Candidate in training for the Diaconate: The Age Limit applies.

Transfer to being a Reader in Training

8. (1) In a situation where a Candidate in training for Ordained Local Ministry desires to transfer to being a Reader in Training, the following procedure shall apply:

(a) The applicant shall inform the Council of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;

(b) Following a Period of Discernment of three months’ duration, the applicant shall require to undergo Local Review, and at the Local Review a decision shall be made on the applicant’s suitability to become a Reader in Training without the need for Assessment Conference;

(c) If the applicant is accepted by the Local Review as a Reader in Training then the applicant will thereafter follow the appropriate procedure under section 2 of Act XVII 1992, including, though not restricted to, such requirements for education and training as may be determined by the Council, and such placements as may be arranged by the Presbytery, having regard to all the circumstances in each particular case;

(d) If the applicant is not accepted by the Local Review as a Reader in Training then the applicant may apply again to transfer to the Readership, up to three times in total, but that number shall be reduced by any previous applications
or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.

(e) If the applicant is not at any time accepted by the Local Review as a Reader in Training then such decision shall not affect the applicant’s status as a candidate in training for the Ordained Local Ministry

(f) A decision of the Local Review not to accept an applicant as a Reader in Training shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.

9. No transfers from the Ordained Local Ministry or from being a candidate in training for the Ordained Local Ministry, or from the Auxiliary Ministry, shall be possible save as set out in sections 6 to 8 above.

SECTION B - TRANSFERS FROM THE READERSHIP

Transfer to being a Candidate for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry

10. (1) In a situation where a Reader in Training, a Reader in service or a retired Reader desires to transfer to be a Candidate for the Ordained Local Ministry, a Candidate for the Diaconate or a Candidate for the Ordained National Ministry, the following procedure shall apply:

(a) The applicant shall inform the Council of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;

(b) Following a Period of Discernment of three months’ duration, the applicant shall require to undergo Local Review. If the outcome of the Local Review is that the applicant is ready to proceed to Assessment Conference, the applicant shall be assessed for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be, in terms of the relevant Act of Assembly;

(c) If the applicant is accepted by the Assessment Conference as a Prospective Candidate for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be, then the applicant will thereafter follow the appropriate procedure under the relevant Act of Assembly, including where appropriate, though not restricted to, the requirement for nomination by Presbytery as a Candidate in terms of sections 7 to 11 of Act X 2004, such requirements for education and training as may be determined by the Council, and such placements as may be required, having regard to the relevant Act of Assembly and to all the circumstances in each particular case;

(d) If the applicant is not accepted by the Assessment Conference as a Prospective Candidate for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be, then the applicant may apply again to transfer to the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the
Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.

(e) If the applicant is not at any time accepted by the Assessment Conference as a Prospective Candidate for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be, then such decision shall not affect the applicant's status as a Reader in Training, a Reader in service or a retired Reader, as the case may be.

(f) A decision of the Assessment Conference not to accept an applicant as a Prospective Candidate for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be, shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.

(2) The following additional provisions shall apply to a Reader in Training, a Reader in service or a retired Reader who seeks to transfer to being a Candidate for the Ordained Local Ministry, the Diaconate or the Ordained National Ministry, as the case may be: The Age Limit applies in the case of an application to transfer to being a Candidate for the Diaconate or the Ordained National Ministry. The Age Limit does not apply where the application is to transfer to being a Candidate for the Ordained Local Ministry.

11. No transfers from being a Reader in Training, a Reader in service or a retired Reader shall be possible save as set out in section 10 above.

SECTION C - TRANSFERS FROM THE DIACONATE

Transfer to being a Candidate for the Ordained National Ministry or the Ordained Local Ministry

12. (1) The following procedure shall apply in a situation where either (a) a Deacon or (b) a candidate in training for the Diaconate, desires to transfer to being a Candidate for the Ordained National Ministry or a Candidate for the Ordained Local Ministry:

(a) The applicant shall inform the Council of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;

(b) Following a Period of Discernment of three months’ duration, the applicant shall require to undergo Local Review. If the outcome of the Local Review is that the applicant is ready to proceed to Assessment Conference, the applicant shall attend an Assessment Conference and undergo National Assessment for (i) the Ordained National Ministry in terms of section 6 of the Selection and Training for Full-Time Ministry Act (Act X 2004) or (ii) the Ordained Local Ministry in terms of section 8 of the Ordained Local Ministry Act (Act IX 2011), as the case may be;

(c) If the applicant is accepted by the Assessment Conference as a Prospective Candidate for the Ordained National Ministry or the Ordained Local Ministry, as the case may be, then the applicant will thereafter follow the appropriate procedure under Act X 2004 or Act IX 2011, as the case may be, including, though not restricted to, the requirement for nomination by Presbytery as a Candidate for the Ordained National Ministry or the Ordained Local Ministry in terms of sections 7 to 11 of that Act and such requirements for education and training as may be determined by the Council, and such placements as may be required, having regard to all the circumstances in each particular
case;

(d) If the applicant is not accepted by the Assessment Conference as a Prospective Candidate for the Ordained National Ministry or the Ordained Local Ministry, as the case may be, then the applicant may apply again to transfer to the Ordained National Ministry or the Ordained Local Ministry, as the case may be, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognized ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.

(e) If the applicant is not at any time accepted by the Assessment Conference as a Prospective Candidate for the Ordained National Ministry or the Ordained Local Ministry, as the case may be, then such decision shall not affect the applicant’s status as a Deacon or as a Candidate in training for the Diaconate, as the case may be.

(f) A decision of the Assessment Conference not to accept an applicant as a Prospective Candidate for the Ordained National Ministry or the Ordained Local Ministry, as the case may be, shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.

(2) The following additional provisions shall apply to Deacons or Candidates in training for the Diaconate who seek to transfer to being a Candidate for the Ordained National Ministry or to the Ordained Local Ministry, as the case may be:

The Age Limit applies in the case of an application to transfer to being a Candidate for the Ordained National Ministry. The Age Limit does not apply where the application is to transfer to being a Candidate for the Ordained Local Ministry.

Transfer to being a Reader in Training

13. (1) In a situation where a Candidate in training for the Diaconate desires to transfer to being a Reader in Training, the following procedure shall apply:

(a) The applicant shall inform the Council of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;

(b) Following a Period of Discernment of three months’ duration, the applicant shall require to undergo Local Review, and at the Local Review a decision shall be made on the applicant’s suitability to become a Reader in Training without the need for Assessment Conference;

(c) If the applicant is accepted by the Local Review as a Reader in Training then the applicant will thereafter follow the appropriate procedure under section 2 of Act XVII 1992, including, though not restricted to, such requirements for education and training as may be determined by the Council, and such placements as may be arranged by the Presbytery, having regard to all the circumstances in each particular case;

(d) If the applicant is not accepted by the Local Review as a Reader in Training then the applicant may apply again to transfer to the Readership, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.
(e) If the applicant is not at any time accepted by the Local Review as a Reader in Training then such decision shall not affect the applicant’s status as a Candidate in training for the Diaconate.

(f) A decision of the Local Review not to accept an applicant as a Reader in Training shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.

14. No transfers from the Diaconate or from being a Candidate for the Diaconate shall be possible save as set out in sections 12 to 13 above.

SECTION D - TRANSFERS FROM THE ORDAINED NATIONAL MINISTRY

Transfer to being a Candidate for the Ordained Local Ministry

15. (1) In a situation where a Candidate for the Ordained National Ministry desires to transfer to being a Candidate for the Ordained Local Ministry, the following procedure shall apply:

(a) The applicant shall inform the Council of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;

(b) Having established eligibility, the Council shall arrange for the applicant to undergo an Assessment Panel;

(c) At the Assessment Panel attention shall be paid to the applicant’s reasons for his or her wish to transfer and his or her understanding of Ordained Local Ministry shall be examined;

(d) If the applicant is accepted by the Assessment Panel as a Prospective Candidate for the Ordained Local Ministry then the applicant will thereafter follow the appropriate procedure under Act X 2004 as applied by Act IX 2011, including, though not restricted to, the requirement for nomination by Presbytery as a Candidate for the Ordained Local Ministry in terms of sections 7 to 11 of that Act, such requirements for education and training as may be determined by the Council, and such placements as may be required, having regard to all the circumstances in each particular case;

(e) If the applicant is not accepted by the Assessment Panel as a Prospective Candidate for the Ordained Local Ministry then the applicant may apply again to transfer to Ordained Local Ministry, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.

(f) If the applicant is not at any time accepted by the Assessment Panel as a Prospective Candidate for the Ordained Local Ministry then such decision shall not affect the applicant’s status as a Candidate for the Ordained National Ministry.

(g) A decision of the Assessment Panel not to accept an applicant as a Prospective Candidate for the Ordained Local Ministry shall be final and binding on the applicant, subject only to subsection (e) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.
Transfer to being a Reader in training

16. (1) In a situation where a Candidate in training for Ordained National Ministry desires to transfer to being a Reader in Training, the following procedure shall apply:

(a) The applicant shall inform the Council of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;

(b) Following a Period of Discernment of three months’ duration, the applicant shall require to undergo Local Review, and at the Local Review a decision shall be made on the applicant’s suitability to become a Reader in Training without the need for Assessment Conference;

(c) If the applicant is accepted by the Local Review as a Reader in Training then the applicant will thereafter follow the appropriate procedure under section 2 of Act XVII 1992, including, though not restricted to, such requirements for education and training as may be determined by the Council, and such placements as may be arranged by the Presbytery, having regard to all the circumstances in each particular case;

(d) If the applicant is not accepted by the Local Review as a Reader in Training then the applicant may apply again to transfer to the Readership, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.

(e) If the applicant is not at any time accepted by the Local Review as a Reader in Training then such decision shall not affect the applicant’s status as a Candidate for the Ordained National Ministry.

(f) A decision of the Local Review not to accept an applicant as a Reader in Training shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.

Transfer to being a Candidate for the Diaconate

17. (1) In a situation where a Candidate for the Ordained National Ministry desires to transfer to being a Candidate for the Diaconate, the following procedure shall apply:

(a) The applicant shall inform the Council of his or her wish to transfer, and at the same time shall inform the Presbytery of the bounds;

(b) Following a Period of Discernment of three months’ duration, the applicant shall require to undergo Local Review. If the outcome of the Local Review is that the applicant is ready to proceed to Assessment Conference, the applicant shall be assessed for the Diaconate in terms of Act X 2004 applied by section 3 of the Deacons Act (Act VIII 2010);

(c) If the applicant is accepted by the Assessment Conference as a Prospective Candidate for the Diaconate then the applicant will thereafter follow the appropriate procedure under Act VIII 2010, including, though not restricted to, the requirement for nomination by Presbytery as a Candidate for the Diaconate in terms of sections 7 to 11 of Act X 2004, such requirements for education and training as may be determined by the Council, and such placements as may be required, having regard to all the circumstances in
each particular case;

(d) If the applicant is not accepted by the Assessment Conference as a Prospective Candidate for the Diaconate then the applicant may apply again to transfer to Diaconate, up to three times in total, but that number shall be reduced by any previous applications or applications to transfer made at any time for the recognised ministries of the Church. A fourth application can be made only in exceptional circumstances and the prior approval of the Committee shall be required.

(e) If the applicant is not at any time accepted by the Assessment Conference as a Prospective Candidate for the Diaconate then such decision shall not affect the applicant’s status as a Candidate for the Ordained National Ministry.

(f) A decision of the Assessment Conference not to accept an applicant as a Prospective Candidate for the Diaconate shall be final and binding on the applicant, subject only to subsection (d) above and to appeal to the Ministries Appeal Panel in terms of section 19 below.

(2) The following additional provision shall apply to Candidates for the Ordained National Ministry who seek to transfer to being a Candidate for the Diaconate: The Age Limit applies.

18. No transfers from the Ordained National Ministry or from being a Candidate for the Ordained National Ministry shall be possible save as set out in sections 15 to 17 above.

Appeals

19. Wherever an appeal to the Ministries Appeal Panel is referred to in this Act, such appeal shall take place as follows:

(1) The appeal shall proceed in terms of Act VI 2007.

(2) The appeal may be brought on one or more of the following grounds: (a) an error in Church law; (b) breach of the principles of natural justice or material irregularity of process; and (c) decision influenced by incorrect material fact.

(3) The intention to appeal shall be intimated by the applicant to the Council within 21 days of the date of the decision of the Assessment Panel, Assessment Conference or Local Review, as the case may be.

Consequential amendments and repeals

20. The following provisions of other Acts shall be repealed:

(1) Sections 26, 28 and 29 of the Ordained Local Ministry Act (Act IX 2011).

(2) Section 7 of the Readership Act (Act XVII 1992).

(3) Section 10 of the Deacons Act (Act VIII 2010).
## SCHEDULE A: ASSESSMENT ROUTES AND TRAINING REQUIREMENTS

Please note the decision of a Local Review is whether to proceed to National Assessment Conference [NAC] except where noted below.

### OLM/AUXILIARY MINISTER

<table>
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<th>FROM</th>
<th>TO</th>
<th>Discernment</th>
<th>Assessment including outcomes/appeals</th>
<th>Training Requirements</th>
<th>Other information</th>
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<td>Assessment Panel</td>
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<td>Must complete by 10 years before UK State Retirement Age</td>
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### OLM/Auxiliary Minister

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<th>Training Requirements</th>
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<td><strong>NOT POSSIBLE.</strong></td>
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*ie a Candidate in terms of Act X 2004
The General Assembly hereby enact and ordain as follows:

Definitions and Interpretation
1. For the purposes of this Act and the Schedule attached hereto:
   (a) “absence” shall mean absence from duties through illness or ill health and “absent” shall be construed accordingly; 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;
   (b) “the Council” shall mean the Ministries Council;
   (c) “Ill Health Committee” shall mean a committee of three persons, comprising the Presbytery Clerk (or his or her appointed substitute), one member of the Presbytery of the bounds appointed for a fixed term to that office and one staff member of the Council;
   (d) “Income Protection” shall mean insurance, with a deferred period of fifty two weeks, to protect against loss of income due to long term ill health;
   (e) “Income Protection Provider” shall mean the Church’s income protection provider for ministers from time to time;
   (f) “Medical Assessment” shall mean an assessment from the Income Protection Provider of medical information supplied to the Income Protection Provider, which Medical Assessment may be indicative or final and which Medical Assessment shall give a view as to whether or not the minister is at that time (i) able or unable to perform his or her current role, and (ii) eligible or ineligible for Income Protection;
   (g) a “minister” shall mean a minister inducted to a charge;
   (h) “OHP Report” means a report prepared by an Occupational Health Physician appointed by the Council as to the ability of the minister to perform his or her current role;
   (i) the phrase “return(s) to work” shall include a phased return;
   (j) “Trigger Date” means the date on which a minister’s absence has extended to six months continuously, or has totalled 300 days out of any twenty two month period;
   (k) “UK State Pension Age” shall mean a person’s UK State Pension Age as determined at the relevant time by the UK Government’s calculations24;
   (l) Where months are referred to, that means calendar months.
   (m) The headings in this Act are for information only and do not form part of this Act.

Procedure for notifying illness
2. (1) Whenever a minister is absent from work due to illness, he or she shall inform the Council in terms of the Procedure appended as Schedule A to this Act.

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24 Ascertained currently by the calculator found on the gov.uk website
(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. 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 minister’s congregation(s).

Pastoral support

4. The Council and the Presbytery shall work together throughout any period of absence of the minister to offer pastoral support, assistance and advice to the minister and to the affected congregation(s).

5. In relation to pastoral support of the minister, the following arrangements shall apply:

   (6) Where an absence continues for three months or there have been several recent absences, the minister and the Council shall consult on the nature of his or her illness, and the extent to which it might be work-related;

   (7) The Council may, through its staff members or through external support services, offer to provide the minister with access to support interventions appropriate to the circumstances of the minister’s absence, which may include provision of reasonable adjustments, coaching, counselling, supervision, therapy, Access to Work provisions, and/or phased return.

Ill Health Committee

6. A Presbytery shall form an Ill Health Committee as required to deal with matters arising under this Act. Where a Committee is to be formed, the Presbytery shall request confirmation from the Council of the name of the staff member to appoint.

Minister’s ill health – procedure for ministers eligible for Income Protection

7. (1) Where the minister is of an age such that after Medical Assessment he or she might be eligible to receive Income Protection, the procedure set out in subsections 7(2) to (4) below shall apply.

   (2) Following the Trigger Date:

      (a) the Council shall as soon as practicable contact the minister to advise him or her of the terms of this Act and shall contact the Presbytery of the bounds to confirm that the provisions of this Act have been triggered;

      (b) the Council shall as soon as practicable make a referral in respect of the minister to the Income Protection Provider, shall supply and facilitate provision of the required information to the Income Protection Provider and shall request that an indicative Medical Assessment on the minister is prepared; the minister shall co-operate in the preparation of any Medical Assessment and shall if required promptly sign any mandate required for the release of medical files and/or information to enable preparation of any Medical Assessment;

      (c) once the indicative Medical Assessment is available, the Ill Health Committee shall meet with the minister as soon as possible, to discuss the indicative Medical Assessment and to consider whether or not the minister is likely to be able to return to work within six months after the Trigger Date;
(d) once the final Medical Assessment is available, the Ill Health Committee shall meet with the minister as soon as possible, to discuss the final Medical Assessment and to consider whether or not the minister is likely to be able to return to work within six months after the Trigger Date;

(e) subject to section 7(4), if the minister returns to work no later than six months after the Trigger Date then no further process shall occur under this Act at that time;

(f) if the minister does not return to work by the date six months after the Trigger Date, and does not choose to demit his or her charge with effect from a date which is at latest nine months after the Trigger Date, the Ill Health Committee shall, as soon as practicable, report to Presbytery that the pastoral tie should be severed with effect from the date nine months after the Trigger Date, save that the Ill Health Committee shall have discretion to report otherwise in the following situations:

(i) the minister is undergoing medical treatment and the prognosis is that he or she will be able to return to work imminently; or

(ii) the absence of the minister has resulted from more than one unrelated health cause in succession and it has not been possible to carry out a Medical Assessment for that reason.

(g) Following receipt of the Ill Health Committee’s report under subsection 7(2)(f), the Presbytery shall meet within twenty one days to implement it. The outcome of the Presbytery meeting shall be intimated without delay to the minister.

(h) If the Presbytery does not sever the pastoral tie, it shall meet again at regular intervals thereafter to consider whether the pastoral tie should be severed. For the avoidance of doubt, if a minister is still absent at the date which is eighteen months after the Trigger Date, the Presbytery shall sever the pastoral tie with effect from eighteen months after the Trigger Date.

(3) For the avoidance of doubt, the Presbytery may sever the pastoral tie whether or not the minister is, in terms of the final Medical Assessment, eligible for Income Protection.

(4) Where a minister returns to work in terms of this section 7 such that no further process occurs at that time, but then is absent again within the twenty two month period following the date of his or her return to work, absence which occurs within any rolling twenty two month period will be taken into account for the purposes of calculating a new Trigger Date.

Minister’s ill health – procedure for ministers ineligible for Income Protection

8. (1) Where the minister is of an age such that he or she will not be eligible to receive Income Protection, the procedure set out in subsections 8(2) and (3) below shall apply.

(2) Following the Trigger Date:

(a) the Council shall as soon as practicable contact the minister to advise him or her of the terms of this Act and shall contact the Presbytery of the bounds to confirm that the provisions of this Act have been triggered;

(b) the Council shall as soon as practicable make a referral in respect of the minister to an Occupational Health Physician appointed by the Council and
shall request that an OHP Report on the minister is prepared; the minister shall co-operate in the preparation of the OHP Report and shall if required promptly sign any mandate required for the release of medical files and/or information to enable preparation of the OHP Report;

(c) once the OHP Report is available, the Ill Health Committee shall meet with the minister as soon as possible, to discuss the OHP Report and to consider whether or not the minister is likely to be able to return to work within six months after the Trigger Date;

(d) subject to section 8(3), if the minister returns to work no later than six months after the Trigger Date then no further process shall occur under this Act at that time;

(e) if the minister does not return to work by the date six months after the Trigger Date, and does not choose to demit his or her charge with effect from a date which is at latest nine months after the Trigger Date, the Ill Health Committee shall, as soon as practicable, report to Presbytery that the pastoral tie should be severed with effect from the date nine months after the Trigger Date, save that the Ill Health Committee shall have discretion to report otherwise in the following situation:

(i) the minister is undergoing medical treatment and the prognosis is that he or she will be able to return to work imminently.

(f) Following receipt of the Ill Health Committee’s report under subsection 8(2)(e), the Presbytery shall meet within twenty one days to implement it. The outcome of the Presbytery meeting shall be intimated without delay to the minister.

(g) If the Presbytery does not sever the pastoral tie, it shall meet again at regular intervals thereafter to consider whether the pastoral tie should be severed. For the avoidance of doubt, if a minister is still absent at the date which is eighteen months after the Trigger Date, the Presbytery shall sever the pastoral tie with effect from eighteen months after the Trigger Date.

(3) Where a minister returns to work in terms of this section 8 such that no further process occurs at that time, but then is absent again within the twenty two month period following the date of his or her return to work, absence which occurs within any rolling twenty two month period will be taken into account for the purposes of calculating a new Trigger Date.

Stipend and Income Protection

9. (1) A minister who is absent in terms of this Act shall, whether or not he or she is eligible for Income Protection, be entitled to receive payment equivalent to (i) full stipend appropriate to the charge and years of service at the date absence commenced, (ii) the appropriate employer’s pension contribution, and (iii) if applicable, Car Allowance, all subject to deduction of tax and National Insurance contributions, for one or other of the following periods:

(a) where this Act is triggered by six months’ continuous absence, a maximum period of eighteen months in total from when the absence commenced, or

(b) where this Act is triggered by an absence of 300 days out of a twenty two month period, during that absence and then for a maximum further period of twelve months from the Trigger Date;
provided always that the minister shall receive no payment under this section 9(1) once he or she reaches UK State Pension Age.

(2) Subject to sections 9(3) and 9(4), a minister who is absent in terms of this Act and who is found, in terms of the final Medical Assessment, to be eligible for Income Protection, shall be entitled to receive payment equivalent to one third of stipend appropriate to the charge and years of service at the date absence commenced (subject to appropriate deductions) plus the appropriate employer’s pension contribution. Payment will begin on:

(a) where this Act is triggered by six months’ continuous absence, the date eighteen months after absence commenced, or

(b) where this Act is triggered by an absence of 300 days out of a twenty two month period, the date twelve months after the Trigger Date.

Payment will continue until the minister is assessed by the Income Protection Provider as able to return to work, or as no longer eligible for Income Protection, or until the date of the minister's UK State Pension Age, whichever of the three is earliest. During the whole time that a minister is in receipt of payments in terms of this section 9, the minister shall require to provide regular medical certificates (fit notes) to the Council.

(3) The minister’s eligibility for Income Protection will be determined according to the rules and procedures of the Income Protection Provider as they exist from time to time, which rules may include regular reassessment of the minister as to eligibility.

(4) The amount payable to the minister in terms of section 9(2) may be reduced if income over a certain amount (determined by the Income Protection Provider) is earned by the minister while he or she is in receipt of payments under section 9(2).

(5) For the avoidance of doubt, but subject to subsection (6) below, a minister who is absent in terms of this Act and who is found to be ineligible for Income Protection (whether due to age or in terms of a final Medical Assessment or otherwise) shall, whether or not the pastoral tie has been severed, receive no payment equivalent to stipend, employer’s pension contribution or Car Allowance after:

(a) where this Act is triggered by six months’ continuous absence, he or she has been absent for eighteen months from when absence commenced, or

(b) where this Act is triggered by an absence of 300 days out of a twenty two month period, a period of twelve months after the Trigger Date;

provided always that payment under this section 9(5) shall cease in any event once the minister reaches UK State Pension Age.

(6) Notwithstanding section 9(1), the Council may agree that a minister who is absent in terms of this Act may, once payments under section 9(1) have expired and where the pastoral tie has not been severed, receive payment equivalent to one-third of stipend appropriate to the charge and years of service at the date absence commenced (subject to appropriate deductions) and employer’s pension contribution, for such period as it may determine is appropriate, in its sole discretion, in the following circumstances:

(a) the minister falls under section 8(1) and the Presbytery has not severed the pastoral tie because the minister is undergoing medical treatment and the prognosis is that he or she will be able to return to work imminently; or

(b) the absence of the minister has resulted from more than one unrelated health cause in succession and it has not yet been possible to carry out a Medical Assessment for that reason; or
the minister is awaiting the outcome of a review/appeal under section 12(2) or 12(3);
provided always that in no circumstances shall any payments be made beyond the date which is eighteen months from the Trigger Date.

Manse
10. (1) Wherever this Act applies and results in the minister demitting his or her charge or in the pastoral tie being severed, then subject to subsections (2)(a) and (b) below, the minister shall be entitled to remain in his or her manse for one or other of the following periods:

(a) where this Act is triggered by six months' continuous absence, for a maximum period of fifteen months from the date when absence commenced, or

(b) where this Act is triggered by an absence of 300 days out of a twenty two month period, during that absence and then for a further period of nine months from the Trigger Date.

(2) (a) Exceptionally, where the Ill Health Committee deems it to be necessary, the minister may remain in occupation of the manse for a further period of up to three months after the date ascertained by subsection 10(1) and that under the General Trustees’ Standard Conditions for Occupation of a Manse on a Caretaker basis.

(b) Alternatively, where subsections 7(2)(h) or 8(2)(g) apply, the minister may remain in occupation of the manse under the General Trustees’ Standard Conditions for Occupation of a Manse on a Caretaker basis for one or other of the following periods:

(i) where this Act is triggered by six months’ continuous absence, for a maximum period of twenty seven months from the date when absence commenced, or

(ii) where this Act is triggered by an absence of 300 days out of a twenty two month period, during that absence and then for a further period of twenty one months from the Trigger Date.

Confidentiality
11. The Ill Health Committee shall conduct its proceedings and hold meetings in private and shall treat all its information and discussions in confidence. Meetings shall be minuted and the minute held in a Record Apart. For the avoidance of doubt, the Ill Health Committee shall retain in confidence all Medical Assessments received and shall not, without consent of the minister, divulge details to any person other than the minister.

Appeals
12. (1) An appeal against a decision of the Presbytery taken in terms of section 7(2)(g) or (h) or 8(2)(f) or (g) of this Act may be brought by a minister on the following

25 The minister shall be entitled to make application at any time following the Trigger Date for assistance with housing to the Housing and Loan Fund who will determine according to its own criteria and rules, whether assistance can be provided to the minister.
grounds: (a) material irregularity of process; or (b) decision influenced by incorrect material fact. The intention to appeal must be intimated to the Principal Clerk by the minister within fourteen days of the date on which the Presbytery’s decision was intimated to the minister. The appeal shall be heard by the Ministries Appeal Panel in terms of the Ministries Appeal Panel Act (Act VI 2007). For the avoidance of doubt:

(a) no appeal may be brought as to the terms of an indicative Medical Assessment; and

(b) the terms of a final Medical Assessment or of an OHP Report may only be appealed as referred to in sections 12(2) and 12(3) below respectively.

(2) A minister who is aggrieved at the terms of a final Medical Assessment may ask the Council to invoke the Income Protection Provider’s appeals process, in which case the Council, if it agrees, may do so, and the decision of the Income Protection Provider on the matter after the appeals process has been completed shall be final. To initiate this process, the minister must make a written request to the Council to invoke the Income Protection Provider’s appeals process within fourteen days of receiving the final Medical Assessment.

(3) A minister who is aggrieved at the terms of an OHP Report may contact the Ill Health Committee to request that the Ill Health Committee review the terms of the OHP Report with the Occupational Health Physician but the report of the Ill Health Committee to the Presbytery on the matter after such review shall be final. To initiate this process, the minister must make a written request to the Ill Health Committee within fourteen days of receiving the OHP Report.

(4) No appeals save as stated in sections 12(1), 12(2) and 12(3) shall be available in respect of matters covered by this Act.

Registration of Ministries

13. Where in terms of this Act a minister demits his or her charge or a pastoral tie is severed, the minister shall thereafter be registered on the Register of Ministry in Category R or Category I, the decision as to which category being determined by the Ill Health Committee or the Presbytery, as appropriate. The normal rights of appeal against the decision of the Ill Health Committee or the Presbytery, as the case may be, (as set out in the Registration of Ministries Act (Act II 2017)) shall be available to the minister.

Meetings

14. Meetings between the Ill Health Committee and the minister may take place by conference call, video conference call or other appropriate medium.

Commencement of this Act

15. This Act shall come into force when passed. From that date it shall apply to any minister who is of an age such that he or she will not be eligible to receive income protection in terms of existing arrangements made by the Council. For a minister who is of an age to fall within section 7 of this Act, it shall apply to any minister whose Trigger Date is on or after 1 July 2020, and prior to that date such a minister shall remain subject to the terms of the Long Term Illness of Ministers Act (Act XV 2002).
Repeal

16. The Long Term Illness of Ministers Act (Act XV 2002) shall remain in force until such time as all ministers who are absent are being assessed in terms of this Act, at which point it shall be repealed.
Schedule A

Procedure for notifying a minister’s absence to the Council

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.

   (4) 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.

   (5) The minister, or his or her appointed nominee, shall continue to provide medical certificates covering the whole period of absence, and a final medical certificate showing the date of return to work, throughout the whole period of absence, each such medical 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. The Council shall maintain the appropriate absence records and shall provide information to the Presbytery upon request.