

**I. GLEBES REGULATIONS (REGS I 1972) (AS AMENDED BY REGULATIONS I 2006)**  
*Edinburgh, May 27, 1972*

1. For the removal of any doubt, no Minister shall have the right to the possession or lease of such land, other than such right as may have been or be granted to him or her by the General Trustees.
2. The General Trustees shall be entitled to grant a lease or right of possession or occupancy to any Minister, Kirk Session or Congregational Board of such land on such terms and conditions as shall be mutually acceptable to the parties.
3. Subject to the following provisions hereof, the Conditions of Tenure of Glebes approved by the General Assembly of 1933 (Appendix C), and the regulations in regard to the question of the amount which Ministers in occupation of Glebes should return as part of their ministerial income approved by the General Assembly of 1960 (Regulation 7) are revoked.
4. Nothing herein contained shall affect the interests of a Minister or the Assistant and Successor of a Minister who, at the passing of the Church of Scotland (Property and Endowments) Act 1925, was the incumbent of the benefice of any Parish.
5. Nothing herein contained shall affect the interests or obligations of a Minister, Kirk Session or Congregational Board in any case where, at the passing hereof, a Minister is in occupation of such land, or has entered into an arrangement where such land is being worked by the Kirk Session or Congregational Board and in respect of which a returnable rent has been fixed; and accordingly in such cases the Conditions of Tenure of Glebes and Regulations of 1960 shall continue to apply.
6. From the date of passing hereof no Minister shall be entitled to grant any lease or right of possession or occupancy of such land.
7. Before selling or otherwise disposing of such land or leasing or granting any right in possession or occupancy thereof, the General Trustees shall consult with the Minister of the Parish or, if the Charge is vacant, with the Financial Board of the Congregation and (except in the case of seasonal grazing or mowing lets or other lets with security of tenure for a period of five years or less) the Presbytery of the Bounds.



**VII. CENTRAL FABRIC FUND REGULATIONS (REGS VII 1979) (AS AMENDED BY REGULATIONS IV 1983 AND II 1992, DELIVERANCE OF 1994 AND REGULATIONS IV 1995, II 1998 AND VI 2003)**

*Edinburgh, May 25, 1979 Sess 7*

**I General**

The Central Fabric Fund shall be used by the Church of Scotland General Trustees in making grants and loans to Financial Boards of Congregations for the purchasing, building, repairing and improving of Churches, Church Halls and Manses held for the Church of Scotland and in certain other special cases as determined by the General Trustees.

**II Applications**

1. There shall be submitted to the Presbytery of the bounds a schedule containing particulars of the proposals, together with plans (if appropriate), estimates of probable costs and a copy of the most recent abstract of congregational accounts. When dealing with the application, Presbytery shall consider all relevant factors including the Presbytery Plan, the number of buildings for which the congregation is responsible, whether the particular building is likely to be required by the congregation in the medium to long term, the need for the work in the interests of safety or to preserve the value of the building as a marketable asset and the impact of the proposed expenditure on the congregation's other commitments such as contributions towards ministry costs and, where appropriate, Mission and Aid. If, after considering these matters, the Presbytery approves of the application, it shall transmit the schedule with its deliverance thereon and the supporting papers to the General Trustees. No application which has not been approved by the Presbytery shall be considered by the General Trustees.
2. In all cases where financial assistance by way of grant or loan is being requested the application must be considered by the General Trustees prior to the work being begun.
3. In urgent cases, where immediate repairs are necessary, the Convener or Vice-Convener of the Fabric Committee of the General Trustees, whom failing a member of that Committee, and the Secretary of the Trustees may give leave for the work to proceed without prejudice to subsequent consideration of the application by the Trustees.
4. Nothing in these or other regulations on the subject shall infer any pecuniary liability on the Church or on the General Trustees to any person undertaking work in connection with any Church, Manse or Hall.
5. The General Trustees reserve the right to decline any application in connection with which these regulations have not been observed.

**III Grants**

1. Grants voted are normally subject to the condition that the title to the ecclesiastical property concerned is vested in the General Trustees or alternatively is vested in a body of local trustees under the express stipulation that the property is subject to the regulation and direction of the General Assembly as regards the management and disposal thereof but the General Trustees are empowered to make grants in other cases in which they deem the circumstances to be appropriate.
2. In considering an application the General Trustees shall give attention to the following points: the Presbytery's opinion of the proposals, the need and urgency of the work, the financial resources and obligations of the Congregation, the efforts made locally to raise additional money for the work and the Congregation's past givings to the Mission and Aid Fund. The General Trustees are empowered to call for the production of the Congregation's Property Register.

3. Grants will be payable on completion of the work, and on presentation of a certified statement of the expenditure incurred and the income available to meet it. The General Trustees shall be at liberty to pay grants in instalments, should circumstances require, up to two thirds of the amount thereof while the work is proceeding, the last instalment being payable on completion of the scheme if the conditions laid down by the General Trustees have been fulfilled.
4. Grants are voted on condition that, if the property in respect of which they are given is subsequently sold, the General Trustees shall have the right of reclaiming the amount of the grant from the proceeds of the sale.
5. The offer of a grant will lapse unless claimed within three years of the date on which it is voted.

#### **IV Loans**

1. Loans may be made of such amount and on such terms as to interest (including non-liability to interest), repayment etc. as the General Trustees, in the particular case, will determine. If interest is charged, the rate in force at the date on which the loan is paid over shall be the maximum rate applicable to that loan until it is repaid, with the exception that interest at the rate fixed from time to time by the Commissioners on the Rate of Interest on Landed Securities in Scotland may be charged on all arrears of instalments or other payments due.
2. Loans will be repayable with interest, if required, in sums and at dates fixed by the General Trustees when the loans are granted. Congregations are encouraged to make complete repayment of capital and interest in shorter time than that determined.
3. The offer of a loan will lapse unless claimed within eighteen months of the date on which it is voted.
4. Loans shall be paid only on an Undertaking to repay signed on behalf of the Financial Board of the Congregation and supported by an extract minute of the Financial Board agreeing the terms proposed by the General Trustees.

- V** Notwithstanding what is said in Section II 1 the General Trustees are authorised to use monies from the Fund to meet any liabilities which may fall on them in respect of buildings in circumstances where, in the judgement of the Trustees, they cannot appropriately recover the same from a congregation.

**V. APPLICATION OF STIPEND AND FABRIC ENDOWMENTS HELD BY THE CHURCH OF SCOTLAND GENERAL TRUSTEES REGULATIONS (REGS V 1995) (AS AMENDED BY REGULATIONS III 1996 AND IV 2003)<sup>1</sup>**

*Edinburgh May 26, 1995. Sess.8.*

**(A) GENERAL**

1. In these Regulations:-

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

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

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

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

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

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

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

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

2. The benefiting congregation in respect of a stipend or fabric endowment will be determined by the General Trustees subject to the whole terms hereof and will normally be the congregation (a) within the parish of which the subject producing the endowment is or was situated or (b) with which the subject is or was connected.

3. Where any decision to allocate or reallocate or not to allocate or reallocate any stipend or fabric monies (including glebe rents) has been made by the Committee or by the General Trustees or any determination regarding the benefiting congregation or charge in respect of a stipend or fabric endowment has been made by the General Trustees all in terms of these Regulations, any Presbytery concerned or any Financial Board having title or interest may (except where the consent of the General Assembly has been given to the decision or determination) petition the General Assembly for review of such decision or determination in terms of the procedure set out in section 2 of Act VII, 1995 anent Powers delegated to The Church of Scotland General Trustees.

4. In implementing the powers conferred upon them under these Regulations, the General Trustees shall have regard to the following principles:

(1) Prior to the coming into force of these Regulations, the law and practice of the Church has been that certain assets, such as the proceeds of sales and other transactions involving glebe subjects, superiorities, ground annuals and the like have been treated as being available for stipend endowment; and other assets, such as the proceeds of sales and other transactions involving ecclesiastical and functional buildings and associated land and the like have been treated as being available for fabric endowment. That practice will generally continue but henceforth subject to the principles laid down in sub-sections (2) and (3) of this Regulation.

(2) If the stipend endowment held for a charge is in excess of its reasonable requirements, the fabric requirements of the congregation or congregations of the charge will be

---

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

[http://www.churchofscotland.org.uk/\\_data/assets/pdf\\_file/0007/3022/reallocation\\_endowments.pdf](http://www.churchofscotland.org.uk/_data/assets/pdf_file/0007/3022/reallocation_endowments.pdf)

or in hard copy by application to the Secretary to the General Trustees.

examined and if any congregation is considered to be inadequately endowed in that respect, an appropriate allocation will be made from the stipend endowment of that congregation to its fabric endowment, any surplus remaining being allocated to the Minimum Stipend Fund.

- (3) If the fabric endowment held for a congregation is in excess of its reasonable requirements, the stipend requirements of the charge related to that congregation will be examined and if the stipend of the charge is considered to be inadequately endowed an appropriate allocation will be made from the fabric endowment of that congregation to its stipend endowment any surplus remaining being, subject to the meeting of any shortfalls in contributions to central funds in the circumstances determined by the Assembly of 1996, allocated to the Central Fabric Fund.

**(B) STIPEND ENDOWMENTS**

1. Subject to the terms hereof, the whole allocations of stipend heretofore made by the Committee in terms of its Powers under the Act XXVII, 1953 anent Powers delegated to the Ministries Council will continue and be deemed to be allocations made under these Regulations for the relative congregations, irrespective of the origin or location of the subject producing the endowments.
2. Where income has, prior to the coming into force of these Regulations, been allocated by the Committee to a congregation from an endowment situated within the ecclesiastical parish of another congregation or with which another congregation is or was connected, the Committee will, in circumstances which it deems to be exceptional, but only at or before the first vacancy in the benefiting charge after such coming into force, have power to reallocate the income on the endowment.
3. Details of all cases in which shares in the Stipend Fund are unallocated will be referred to the Presbytery which shall give its views to the General Trustees on a possible reallocation in terms of Guidelines as set from time to time by the General Trustees and approved by the General Assembly.
4. At each vacancy in a charge, if the value of shares in the Stipend Fund held for the congregation or congregations of the charge exceeds an amount to be determined from time to time by the General Trustees after consultation with the Committee, Presbytery shall give its views to the General Trustees on a possible reallocation in terms of the said Guidelines.
5. When new capital falls to be included in the Stipend Fund Presbytery shall give its views to the General Trustees on a possible reallocation if (i) the following circumstances obtain namely (a) the value of the new capital exceeds such amount as may be determined from time to time by the General Trustees after consultation with the Committee and (b) the addition of the new capital to the existing stipend endowment held for the charge would result in the value of the endowment held for the charge exceeding the amount determined in relation to section (B) 4 above or (ii) the General Trustees or the Committee so require.
6. On receiving the views of Presbytery on a possible reallocation or if no views are expressed within a period of three months from the reference to Presbytery or such longer period as may be allowed by the General Trustees in a particular case, the General Trustees shall make a reallocation allowed by the General Trustees in a particular case, the General Trustees shall make a reallocation or determine not to make any reallocation but shall not make any reallocation to the Fabric Fund without the specific concurrence of the Committee or the General Assembly.
7. Glebe rents shall be applied towards the stipend of the congregation with which the glebe is connected but the General Trustees will have power, in what they deem to be exceptional circumstances, to allocate excess monies either to the revenue account in the Consolidated Fabric Fund held for behoof of the congregation or to the Minimum Stipend Fund subject in the former case to the concurrence of the Committee.

8. On the dissolution of a congregation, the endowments for stipend held for its behoof will, unless there is agreement by both the General Trustees and the Committee to the contrary or either body refers the matter to the General Assembly, be allocated to the Minimum Stipend Fund.

**(C) FABRIC ENDOWMENTS**

1. (1) Subject to the terms hereof the whole allocations made by the General Assembly or their Commission or by the General Trustees in terms of Act XIV 1979 anent Powers delegated to The Church of Scotland General Trustees (as amended) in respect of funds heretofore held in the records of the Consolidated Loan Fund will continue and be deemed to be allocations made under these Regulations to the extent that the corresponding shares in the Fabric Fund and sums in the relative revenue accounts will be held by the General Trustees for behoof of the same congregations or interests of Church as previously.
  - (2) The Acts, deliverances, determinations and other instruments making such allocations will, however, be otherwise revoked and the said shares and funds will be held and applied by the General Trustees in accordance with the provisions for the use of monies in the Fabric Fund as set out by the General Trustees from time to time and approved by the General Assembly.
  - (3) Where, however, the General Trustees are of the view that it would be inappropriate to include particular funds in the operation of section (C) 1(2) hereof, because of the purposes for which they are held at the time when these Regulations come into force, they will have the power to disapply the operation of that section in such cases. Such funds will continue to be held for the purposes of the Acts, deliverances, determinations or other instruments governing their application subject always to the terms of Act VII, 1995 anent Powers delegated to The Church of Scotland General Trustees.
2. Details of all cases in which the value of the assets in the Fabric Fund held for behoof of a congregation exceeds an amount to be determined by the General Trustees from time to time will be referred to Presbytery which shall give its views to the General Trustees on a possible reallocation in terms of the Guidelines as set from time to time by the General Trustees and approved by the General Assembly.
  3. When new capital becomes available Presbytery shall give its views to the General Trustees on a possible reallocation if (i) the following circumstances obtain namely (a) the value of the new capital exceeds such amount as may be determined from time to time by the General Trustees and (b) the addition of the new capital to the existing fabric endowment held for the congregation would result in the value of the endowment held for the congregation exceeding such amount as may be determined in relation to section (C) 2 above or (ii) the General Trustees or the Committee so require.
  4. The General Trustees may, in each case in which they consider the circumstances are appropriate, invite the Presbytery to give its views on a possible reallocation and any Presbytery will have the right *ex proprio motu* to give its views on a possible reallocation in any case.
  5. On receiving the views of Presbytery on a possible reallocation or if no views are expressed within a period of three months from the reference to Presbytery or such longer period as may be allowed by the General Trustees in a particular case, the General Trustees shall make a reallocation or determine not to make any reallocation.
  6. On the dissolution of a Congregation the proceeds of sale of relevant or redundant properties, either vested in the General Trustees or vested in other trustees but under the control of the General Assembly, will, subject to the meeting of any shortfalls in contributions to central funds in the circumstances determined by the Assembly of 1996, unless there is agreement by both the General Trustees and the Committee to the

contrary or either body refers the matter to the General Assembly, be allocated to the Central Fabric Fund.



## **VII. CONSOLIDATED FABRIC FUND REGULATIONS (REGS VII 1995) (AS AMENDED BY REGULATIONS VIII 2000 AND V 2003)<sup>2</sup>**

*Edinburgh, May 26 1995 Sess. 8*

### **A Creation of the Consolidated Fabric Fund**

1. A Consolidated Fabric Fund (hereinafter referred to as “the Fund”) will be created on a day (“the appointed day”) to be appointed by the Church of Scotland General Trustees (“the General Trustees”) by the transfer to it of the whole assets representing all the special accounts (both capital and revenue) held by the General Trustees for fabric or other purposes in connection with any congregation or interest of the Church and which are or may be subject to any determination made or to be made under the Act VII 1995 anent Powers delegated to The Church of Scotland General Trustees; declaring that there will be excepted from the said transfer the whole assets representing (a) realisations of glebe subjects, superiorities, ground annuals and other such endowments held for stipend and (b) particular funds in regard to which the General Trustees have, in terms of the Regulations anent the Application of Stipend and Fabric Endowments held by The Church of Scotland General Trustees, disapplied the operation of section (C)1(2) thereof.
2. The Fund will be administered by the General Trustees who will receive donations bequests and others directed to it.
3. The transfer of assets herein provided for and the administration of the Fund will be without prejudice to the rights and duties of the Church of Scotland Investors Trust and any other body in regard to funds or assets vested in them.

### **B Valuation, Creation and Administration of Accounts**

1. The value of the whole assets, both capital and revenue, transferred to the General Trustees and as defined in paragraph (A)1 hereof will be calculated and fixed by the General Trustees on the appointed day.
2. On the appointed day the capital account of each congregation or interest of the Church will be credited in the records of the Fund with the total amount of capital standing at credit of its special account on that day and that in substitution of the special account. Further, the General Trustees will determine the value as at that day of a share of capital in the Fund and shall convert the amount so credited in each account into the requisite number of shares (all fractions to be rounded up).
3. On the appointed day the revenue account of each congregation or interest of the Church will be credited in the records of the Fund with the total amount of revenue standing at credit of its special account at the appointed day and that in substitution of the special account. The sum at credit of each revenue account will normally be invested in the Deposit Fund of the Church of Scotland Investors Trust.
4. The capital (or share) and revenue accounts so opened in the records of the Fund together with all further accounts opened on the introduction of new proceeds or funds as aforementioned are herein referred to wherever the expression “the accounts” is used.
5. The General Trustees shall, prior to 30th April and 31st October in each year declare a dividend payable on the shares for the half-year ending on 31st March and 30th September respectively and each revenue account will be credited in

---

<sup>2</sup>Monies in the Consolidated Fabric Fund are to be used for purposes which were laid down by the General Assembly in 1995, as subsequently amended and which are set out in Appendix A of the following note: [http://www.churchofscotland.org.uk/\\_data/assets/pdf\\_file/0007/3013/fabric\\_consolid\\_fund\\_admin.pdf](http://www.churchofscotland.org.uk/_data/assets/pdf_file/0007/3013/fabric_consolid_fund_admin.pdf) or in hard copy by application to the Secretary of the General Trustees.

May and in November respectively with the dividend appropriate to the number of shares held in respect of each capital account.

6. All new proceeds or funds accruing after the appointed day to the General Trustees and as defined in Section (A) above will be transferred to the Fund as assets thereof and in terms of these Regulations. The values or amounts of such new proceeds or funds will form additions to existing accounts or will from the initial amounts to be credited to new accounts as appropriate and may be introduced into the Fund at the beginning of each calendar month.
7. The General Trustees as administrators of the Fund will be bound to meet as and when required the amounts standing at credit from time to time of the accounts.

### **C Management of Funds**

The funds or assets of the Fund will be managed by the General Trustees in the following way *videlicet*:-

- (1) for meeting the expenses of administration of the Fund, declaring that the General Trustees may, for this purpose, charge commission on the income of the Fund at a rate to be determined by them.
- (2) for meeting their liabilities in connection with the accounts.
- (3) in respect of the balance of funds, not required for the preceding purposes, for investing in any investment permitted to them in terms of the Church of Scotland (General Trustees) Order Confirmation Act 1921 (as amended) and the Church of Scotland (Properties and Investments) Order Confirmation Act 1994.

### **D Introduction of New Capital**

New Capital may be introduced to the Fund at the beginning of each calendar month and the number of shares to be attributed to such new capital will be ascertained by dividing the total value of the capital of the Fund by the number of shares in issue at that date, the share value thus produced being divided into the relevant new capital to determine the new shares.

### **E Withdrawal of Capital**

Capital may be withdrawn from the Fund at the beginning of each calendar month by the encashment of shares; the value of the shares to be withdrawn will be ascertained by dividing the total value of the capital of the Fund by the number of shares in issue at that date, the share value thus produced being multiplied by the number of shares being withdrawn in order to determine their aggregate value.

### **F Investment Accounts**

The General Trustees are authorised after consultation with the congregation concerned (a) to encash all the shares held in the capital account of that congregation and to move the proceeds to an Investment Account for behoof of that congregation, and (b) to place new proceeds or funds accruing after the appointed day in an Investment Account. Monies in Investment Accounts will be invested in such a way as may be determined by the General Trustees and will be deemed to remain part of the capital of the Fund. The revenue accruing on Investment Accounts will be credited to the Revenue Account of the congregation concerned.

### **G Application of Funds**

The amount held in each of the accounts opened on the appointed day or subsequently in the records of the Fund will be held and applied by the General Trustees in terms of Act VII 1995 anent Powers delegated to The Church of Scotland General Trustees and the Regulations V of 1995 anent the Application of Stipend and Fabric Endowments held by The Church of Scotland General Trustees.

### **H New Charges**

Any holding in the Fund for the benefit of a congregation which adopts the status of and is constituted as a New Charge shall be transferred by the General Trustees to the Committee on New Charge Development to be held and applied by it for fabric purposes in connection with that Congregation.

**I Commencement**

These Regulations will come into force on the appointed day which shall be intimated by the General Trustees to each Presbytery of the Church.



## **II. PROCEEDS OF SALE OF HERITABLE PROPERTIES REGULATIONS (REGS II 1996) (AS AMENDED BY ACT VIII 2003)**

*Edinburgh, May 24 1996. Sess.8*

With reference to the question of unjustified shortfalls, in terms of Act VIII 2003, in contributions to central funds instruct that:–

- (a) Any heritable property held by or for behoof of a congregation which is to be dissolved shall, if the same is not already vested in the General Trustees, subject to their concurrence, be transferred to the General Trustees prior to the dissolution and on the dissolution of a congregation any accumulated shortfalls in contributions to central funds, to the extent to which these have been determined by Presbytery to be unjustified, shall be the first charge on (i) the free moveable assets of the congregation and (ii) thereafter to the extent to which they have not been satisfied from such assets, the free proceeds of any redundant heritable property.
- (b) On the sale as a direct result of a union or linking of a redundant heritable property held by or for behoof of a congregation, if that congregation has a shortfall in its contributions to central funds which has been determined by Presbytery to be to any extent unjustified, the following provisions will apply:–
  - (i) In the case of a property falling within the scope of Act VII 1995, the General Trustees shall, before making an allocation to the Central Fabric Fund of any surplus monies, set against the same any shortfalls in contributions to central funds to the extent to which these have been declared by Presbytery to be unjustified and
  - (ii) In the case of properties not falling within the scope of Act VII 1995, Presbytery shall look at the whole circumstances of the congregation including (a) its total resources – in particular resources held by it locally and other sources from which it can obtain assistance (b) its commitments in respect of the funding of ministry in the parish and in the buildings' field (c) its givings' record and potential and (d) its future in the context of the Presbytery's readjustment plan and necessary buildings' policy. If after doing so it considers that following receipt of the proceeds of sale of the redundant property the monies held are in excess of the reasonable fabric requirements of the congregation it shall consider the funds held by or for behoof of the congregation for stipend purposes and, if it considers that stipend requirements are not sufficiently endowed, direct that the whole or part of the surplus fabric monies be remitted to the General Trustees to be held in the Consolidated Stipend Fund for behoof of the congregation. If after this exercise it considers that the monies held are still in excess of the reasonable fabric requirements of the congregation it shall determine that there shall be set against such part of the proceeds of sale of such redundant heritable property as Presbytery considers surplus to such requirements, the shortfall in contributions to central funds to the extent to which this has been declared by Presbytery to be unjustified.



# **I. WORK AT ECCLESIASTICAL BUILDINGS REGULATIONS (REGS I 1998) (AS AMENDED BY REGULATIONS VII 2000)**

*Edinburgh, May 16 1998, Sess. 1*

## **1. Introductory**

- (a) These regulations apply in respect of ecclesiastical buildings held by or on behalf of any court or congregation of the Church of Scotland, within the Presbyteries in Scotland and England.
- (b) In the regulations the following definitions apply:-
  - (i) The term “ecclesiastical building” includes 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 includes churches, church halls, manses, houses for assistant or associate ministers, church officers’ houses, retirement houses, ancillary buildings or outbuildings and properties which are let; any object or structure fixed to an ecclesiastical building or forming part of the land and comprised within the curtilage will be treated as part of the building. For the purposes of these regulations congregations of Church Extension Charges and New Charges will not be deemed to be congregations until they attain full status.
  - (ii) The term “repair” as applied to ecclesiastical buildings means in general the carrying out of operations to make good and includes in particular restoration and redecoration which do not bring about any change in the character or appearance of the subjects.
  - (iii) The term “alteration” as applied to ecclesiastical buildings means in general any change thereto and includes in particular demolition (including partial demolition), erection, extension, reconstruction, restoration and redecoration except in so far as the same are embraced within the definition of “repair”.
  - (iv) The term “Financial Board” means the Congregational Board or other body in the congregation having charge of the property of the congregation.
  - (v) The term “Financial Limit” means that sum of money falling to be determined by the General Assembly in terms of paragraph 4(a) of the regulations.

## **2. Presbytery Approvals**

- (a) Subject to the provisions in paragraphs 2 (b) and 4 (c) of the regulations, a Financial Board shall not without first obtaining the approval of Presbytery of the bounds instruct the carrying out of repairs or alterations at an ecclesiastical building.
- (b) Each Presbytery is authorised and empowered from time to time to make provision by way of resolution that the requirement for its approval may be dispensed with in such circumstances and on such conditions as it may deem appropriate except that it will have no power to make any provision which elides the necessity for obtaining Presbytery approval for work at an ecclesiastical building which meets any of the following criteria:-
  - (i) The cost exceeds the Financial Limit.
  - (ii) The cost plus the cost of work at the same building authorised by Presbytery during the previous three years, exceeds the Financial Limit.
  - (iii) The cost plus the cost of other work likely to be required at the same building over the following three years, is likely to exceed the Financial Limit.
  - (iv) The work is otherwise work which requires the approval of the General Trustees.

Work meeting criteria (i), (ii) or (iii) is hereinafter referred to as work which invokes the Financial Limit.

In the case of work meeting criterion (iv) but not work meeting criteria (i), (ii) or (iii), Presbytery is empowered to resolve that approval is deemed to be granted if the same is authorised by the Presbytery Property Convener or some other person or body nominated by Presbytery.

Any resolution by Presbytery hereunder will have no effect until it has, in writing, been intimated to and acknowledged by the General Trustees.

- (c) When Presbytery is dealing with applications for approval of work at a building, Presbytery shall consider all relevant factors including the Presbytery Appraisal Plan, the number of buildings for which the congregation is responsible, whether the particular building is likely to be required by the congregation in the medium to long term, the need for the work in the interests of safety or to preserve the value of the building as a marketable asset and the impact of the proposed expenditure on the congregation's other commitments such as contributions towards their Ministries and Mission Allocations.
- (d) If a Presbytery withholds approval for work, the Financial Board or Boards of the congregation or congregations concerned will have a right of appeal to the Commission of Assembly subject to compliance with the following provisions:-
  - (i) It shall be the duty of Presbytery in such circumstances to advise the Financial Board or Boards forthwith in writing both of their right of appeal and the time limit which applies.
  - (ii) A Financial Board wishing to lodge an appeal must intimate the same in writing both to the Principal Clerk of the General Assembly and to the Presbytery within 21 days of the Presbytery having intimated in writing that it has resolved to withhold approval for work.
  - (iii) The Principal Clerk of the General Assembly shall, as soon as possible following receipt of the appeal, give notice to the congregation and the Presbytery that they are each required to lodge with the Principal Clerk within 21 days all appropriate papers and Extract Minutes.
- (e) When approval has been granted by or on behalf of Presbytery for work which requires also the approval of the General Trustees the application shall be transmitted immediately to the Secretary and Clerk of the General Trustees. Presbyteries are empowered in cases where work does not require the approval of the General Trustees but Presbytery, for any reason, financial or otherwise, considers that it would be appropriate for the General Trustees to consider this work, to approve subject to the approval of the General Trustees and to pass the application on to the Trustees' Secretary and Clerk with its observations.

### **3. General Trustees' Approval**

- (a) Subject to the provisions of paragraphs 3(d) and 4(c) of the regulations a Financial Board shall not without first obtaining the approval of the General Trustees instruct the carrying out of alterations at an ecclesiastical building or of work at an ecclesiastical building which invokes the Financial Limit.
- (b) The General Trustees shall not give unconditional approval for the carrying out of an alteration to the exterior of a church building or of a building within the curtilage of a church building or to the sanctuary of a church building without the opinion of the Committee on Church Art and Architecture having been obtained thereon and taken into account.
- (c) The General Trustees shall not give unconditional approval for the carrying out of work at an ecclesiastical building where the cost of work invokes the Financial Limit without the opinion of the Planning and Deployment Committee of the Ministries Council having been obtained thereon and, in the event of the Committee not concurring, taken into account. This provision will not apply to work at manses, houses for assistant or associate ministers, church officer's houses or retirement houses unless the same form part of a church or hall building.



- (d) The General Trustees are authorised and empowered from time to time to make provision by way of resolution that the requirement for their approval may be dispensed with in such circumstances and on such conditions as they may deem appropriate except that they will have no power to make any provision which conflicts with the requirements of paragraphs 3 (b) or 3 (c) of the regulations. Any such resolution will have no effect until it is either printed and issued in a Report of the General Trustees to the General Assembly or intimated in writing to every Presbytery in Scotland and England.
- (e) On making a decision under the regulations to approve or not to approve of work, the General Trustees will be bound to intimate the same forthwith to:-
  - (i) The Presbytery concerned
  - (ii) The Financial Board or Boards of the congregation or congregations directly affected and
  - (iii) In cases where the cost of the work invokes the Financial Limit and the Planning and Deployment Committee of the Ministries Council has not concurred, that Committee.

If a decision not to approve of work is based on views expressed by the Planning and Deployment Committee of the Ministries Council, the General Trustees will be bound to incorporate a statement to that effect in the intimation.

- (f) The following provisions will apply with regard to the review of decisions made by the General Trustees where the Planning and Deployment Committee of the Ministries Council has not concurred in the carrying out of the work:-
  - (i) If a decision of the General Trustees is not to approve of work and is stated to be based on views expressed by the Planning and Deployment Committee of the Ministries Council, it will, in so far as that aspect is concerned, be subject to review at the instance of the Presbytery or a Financial Board concerned which shall within two months of the date of the issue of the relevant intimation by the General Trustees and subject to compliance with the Standing Orders of the General Assembly, intimate in writing to the Principal Clerk of the General Assembly that it takes the case by Reference to the Commission of Assembly for review; provided always that in such circumstances a Reference will be competent only if written intimation to the Principal Clerk is given timeously and written intimation thereof given at the same time to the General Trustees and the Planning and Deployment Committee of the Ministries Council.
  - (ii) If a decision of the General Trustees is to approve of work, where the cost of the work invokes the Financial Limit and the Planning and Deployment Committee of the Ministries Council has not concurred, the decision will be subject to review at the instance of that Committee which shall within two weeks of the date of the issue of the relevant intimation by the General Trustees and subject to compliance with the Standing Orders of the General Assembly intimate in writing to the Principal Clerk of the General Assembly that it takes the case by Reference to the Commission of Assembly for review; provided always that in such circumstances a Reference will be competent only if written intimation to the Principal Clerk is given timeously and written intimation thereof given at the same time to the Presbytery and Financial Board or Boards concerned and to the General Trustees.
  - (iii) The procedure in respect of References made under the foregoing provisions will follow that applicable to References in Readjustment Cases and where the decision of the General Trustees is to approve of work, the work shall not be put in hand until after either (a) the period of two weeks has expired and no Reference by the Planning and Deployment Committee of the Ministries Council has been intimated or (b) such Reference having

been intimated has been withdrawn or (c) the decision of the General Trustees has been confirmed by the Commission of Assembly.

**4. General**

- (a) The General Assembly on the Report of the General Trustees shall determine and thereafter review at intervals of not longer than 5 years the amount of the Financial Limit.
- (b) The provisions in these regulations apply irrespective of the body in which an ecclesiastical building is vested or the manner in which the tiles are held and, in particular, will cover subjects held on lease, and are without prejudice to the need to obtain any additional consents or approvals which may be necessary for the carrying out of work and resulting from any requirement in the titles, the constitution of the congregation or otherwise.
- (c) Where a repair or alteration to an ecclesiastical building is urgently necessary in the interests of safety or for the preservation of the building the Financial Board may proceed to have such work done without obtaining such approvals as would otherwise be required under these regulations but shall give immediate written notice to Presbytery and to the General Trustees of the need for the works and full details of what has been instructed.
- (d) Any approvals given under these regulations by Presbytery or by the General Trustees for the carrying out of repairs or alterations will not infer the approval of either body to the making available towards the cost of any funds held or administered by the General Trustees or any other body exercising supervision thereof on behalf of or under delegated powers from the General Assembly and in the event of the Financial Board wishing to apply for the release of such funds it shall specifically seek such approvals as are necessary in that regard.
- (e) Any approval granted by Presbytery or the General Trustees under these regulations will, unless acted upon, lapse after a period of three years from the date upon which it was granted.
- (f) There are hereby rescinded (i) Regulations V 1989 as amended by the Assembly of 1992 and (ii) any other regulations and practice of the Church relating to repairs or alterations in so far as such are inconsistent with these regulations.
- (g) The General Assembly reserve power to amend, alter or rescind these regulations at any time as they may think proper.

**VI. CHURCH OF SCOTLAND INVESTORS TRUST REGULATIONS (REGS VI 1998)**  
*Edinburgh, 22nd May 1998, Sess. 8*

**CHURCH OF SCOTLAND  
INVESTORS TRUST**

**GROWTH FUND**

**REGULATIONS made by the General Assembly of The Church of Scotland with reference to the Growth Fund of The Church of Scotland Investors Trust, in exercise of powers contained in Section 41 of the Church of Scotland (Properties and Investments) Order Confirmation Act 1994.**

1. These Regulations shall operate as from 31st May 1998 and shall supersede all existing Byelaws and Regulations relating to the Fund.

**2. Interpretation and Definitions**

2.1 In these Regulations, unless the context shall otherwise require, the following words and expressions shall have the meanings hereinafter assigned to them:

**the Church** means The Church of Scotland;

**the Confirmation Act 1994** means the Church of Scotland (Properties and Investments) Order Confirmation Act 1994, including the Schedule thereto, as amended from time to time;

**the Fund** means the Growth Fund of the Trust;

**the General Assembly** means the General Assembly of the Church;

**Investments** means all or any of the investments in which the Trust may invest in terms of the Confirmation Act 1994;

**Investor** means any of the bodies or persons who shall invest in the Fund or, where the context so requires, holds Units in the Fund, and for whom the Trust may hold or receive property in terms of the Confirmation Act 1994, such bodies or persons being, at the time of making these Regulations, the following: the Church or any court of the Church or council or committee of the General Assembly or any association, fund or scheme of the Church or any congregation, financial board of a congregation or other ecclesiastical body or organisation of the Church; or, in respect of property held by a trustee or body of trustees for any of the foregoing bodies or persons, any such trustee or body of trustees; or any other body or person for whom The Church of Scotland Trust held moveable property prior to such property being transferred to the Trust in terms of the Confirmation Act 1994 in relation to such property only, and **Investors** shall be construed accordingly;

**a Month-End Statement** means a statement prepared by the Trustees in accordance with Regulation 6 hereof;

**the Trust** means The Church of Scotland Investors Trust;

**the Trustees** means the members of the Trust; and

**a Unit** means a Unit in respect of which income is to be distributed in accordance with these Regulations and which represents one undivided share in all the net assets for the time being held by the Trustees in respect of the Fund but excluding any amount of income which for the time being the Trustees have become obliged to distribute pursuant to these Regulations and **Units** shall be construed accordingly.

**2.2** In these Regulations, unless the context otherwise requires, a reference to the singular includes a reference to the plural and vice versa and a reference to any gender includes a reference to all other genders.

**3. Powers of Investment and Investment Objectives**

The Trustees shall have power to apply money invested in the Fund in Investments as defined in Regulation 2.1 hereof. Such Investments shall be regarded as made for the common benefit of the Investors. In the exercise of their power of investment, the Trustees shall have regard to any direction or deliverance of the General Assembly on the suitability of particular Investments, and shall give effect to any such direction or deliverance to the extent that the Trustees consider that doing so conforms with the duties owed by the Trustees to the Investors in the Fund. The investment objectives of the Fund shall be those determined by the Trustees from time to time. A statement of those objectives in respect of the Fund for the time being shall be included in each Annual Report of the Trust referred to in Regulation 11 hereof.

**4. Property which may be invested in the Fund**

The Trustees may accept in respect of the Fund from or on behalf of any Investor money held by such Investor for any Church purpose, which the Investor desires to invest in the Fund. The Trustees shall in their discretion be free in any event to decline to accept such money.

**5. Unit Basis**

The Fund shall be divided into Units. The Trustees shall have power at any time to determine that each Unit issued in respect of the Fund shall be sub-divided into two or more Units or consolidated with one or more other Units issued, whereupon each such Unit shall stand sub-divided or consolidated accordingly and the share of the Fund represented by each Unit as so sub-divided or consolidated accordingly and the share of the Fund represented by each unit as so sub-divided or consolidated, shall be adjusted and each Investor credited appropriately. Existing Investors in the Fund shall remain credited, immediately after the coming into operation of these Regulations, with the same number of Units as they were so credited immediately before.

**6. Month-End Statements**

The Trustees shall, for the purposes of calculating the price of Units, prepare a statement at the end of each calendar month (hereinafter called "Month-End Dates") showing (a) the total number of Units held by Investors, and (b) the net assets of the Fund as determined by the Trustees.

**7. Calculation of Unit Price at a Month-End Date**

The price per Unit on acquisition or disposal of Units at each of the Month-End Dates shall be calculated to the nearest penny by dividing the value of the net assets of the Fund as determined by the Trustees in the relevant Month-End Statement by the total number of Units stated in the said Month-End Statement.

**8. Method of Investment**

Intending Investors wishing to invest money in the Fund shall invest in the desired number of Units either at a price to be determined by the Trustees in accordance with

Regulation 7 as at the immediately preceding Month-End Date or, if the Trustees so decide, at such other price as the Trustees may determine based upon the value of the net assets of the Fund as at the date of the Investor making the relevant Investment. Notwithstanding the terms of any other provisions of these Regulations, the Trustees shall have complete discretion to refuse to accept any investment by any Investor whether an existing Investor or not. The intending Investor shall be informed of the price per Unit as soon as possible after completion of either the calculation of the price made in accordance with Regulation 7 as at the immediately preceding Month-End Date or the calculation by the Trustees of such other price as they shall determine in accordance with the terms of this Regulation, as the case may be. The Investor shall have the option, to be exercised within such period as the Trustees shall from time to time in their discretion permit, of either making the investment (in whole or in part) or intimating its intention not to invest. If the Investor fails to exercise such option within such period so permitted by the Trustees, the Trustees may decline to accept such money for investment.

**9. Method of Withdrawal of Investment**

Investors wishing to withdraw money from the Fund shall realise the desired number of Units either at a price to be determined by the Trustees in accordance with Regulation 7 as at the immediately preceding Month-End Date or, if the Trustees so decide, at such other price as the Trustees may determine based upon the value of the net assets of the Fund as at the date of the Investor making the relevant withdrawal. The Investor shall be informed of the price per Unit as soon as possible after completion of either the calculation of the price made in accordance with Regulation 7 as at the immediately preceding Month-End Date or the calculation by the Trustees of such other price as they shall determine in accordance with the terms of this Regulation, as the case may be. The Investor shall then have the option, to be exercised within such period as the Trustees shall from time to time in their discretion permit, of either completing the withdrawal (in whole or in part) or cancelling the request therefor, in which latter case such request shall lapse. If the Investor fails to exercise such option within such period so permitted by the Trustees, the Trustees shall be entitled to treat the request for withdrawal as having lapsed.

**10. Capital and Revenue**

All income received for the Fund shall be treated as Revenue and carried to a Revenue Account, or its equivalent as shall from time to time be in existence (as determined by the Trustees). All management, administrative or other expenses incurred on behalf of the Fund shall, in the first instance, be deducted from the Revenue Account. Notwithstanding the foregoing, the Trustees shall have power to apportion any such expenses in respect of the Fund between the Revenue Account and the Capital Account or its equivalent, as shall from time to time be in existence, (as determined by the Trustees). All gains and losses on the realisation of Investments on behalf of the Fund shall be treated as Capital and respectively credited or debited to the Capital Account. The Trustees shall have power to make such transfers in respect of the Fund as they think desirable from the Revenue Account to the Capital Account and similarly to make transfers in respect of the Fund from the Capital Account to the Revenue Account.

**11. Preparation and Audit of Financial Statements**

The Trustees shall prepare Financial Statements in respect of the Fund for each year to 31<sup>st</sup> December, which shall be included within the Annual Report and Financial Statements in respect of the Trust separately from the other Financial Statements included therein. The Financial Statements of the Fund shall be prepared in accordance with such current generally accepted accounting principles as the Trustees shall in their entire discretion consider to be appropriate to the Fund or to the Trust.

The Financial Statements of the Fund shall be audited by Registered Auditors. The Annual Report shall include a report of the Auditors and together with the Financial Statements shall be laid before the General Assembly at its annual meeting in the year following the period to which they relate.

**12. Distributions**

Distributions of income in respect of the Fund shall be paid by the Trustees to Investors on 15th May and 15th November (and/or at such other times as the Trustees shall consider appropriate) in respect of each year to 31st December out of the balance in respect of the Fund in the Revenue Account, after any transfers made in accordance with Regulation 10. Investors in the Fund shall participate in such distributions in proportion to the number of Units held at the month end immediately preceding the due date of payment of such distributions.

**13. Transfer of Units**

Investors may transfer Units held by issuing instructions in writing to the Trustees provided that the proposed transferee satisfies the conditions for eligibility as an Investor, as defined in Regulation 2.1 hereof. No transfer shall be registered unless the transferee satisfies the said conditions for eligibility.

**14. Eligibility of Investors**

**14.1** The Trustees may at any time and from time to time, call upon any body, either before or after such body shall have been registered as an Investor by notice in writing, to establish that it satisfies or continues to satisfy the conditions for eligibility as an Investor, as defined in Regulation 2.1 hereof and for that purpose to furnish the Trustees with all information and evidence requisite for that purpose and also to furnish to the Commissioners of Inland Revenue such evidence as the said Commissioners may require for the like purpose.

**14.2** Any holder of Units ceasing to satisfy the conditions for eligibility as an Investor as defined in Regulation 2.1 hereof shall thereupon immediately inform the Trustees and shall either transfer all of its Units to a person or body satisfying the said conditions for eligibility within seven days of the date upon which it ceases to satisfy the said conditions in accordance with Regulation 13 or shall realise all of its Units at the next Month-End Date.

**15. The Fund as a Distinct Entity**

The whole assets of the Fund shall be held, and the whole Investments of the Fund shall be made by the Trustees, solely for the benefit of the Investors of the Fund. The investors of any other fund or funds administered by the Trustees in respect of the Trust shall have no right, title or interest in or to the said assets and Investments and shall have no right to payment of interest or distributions or otherwise from the income or assets of the Fund. The said assets and Investments of the Fund are not transferable to any such other fund or funds in any way.

**16. Winding up**

The General Assembly shall have power at any time to authorise the winding up of the Fund. In the event of a winding up of the Fund, the whole Investments and other net assets of the Fund or the proceeds of sale thereof, less expenses of winding up, shall be divided among the Investors in the Fund *pro-rata* according to the number of Units then held by the respective Investors in the Fund, subject to such Regulations as may be made by the General Assembly for regulating the winding up of the Fund.

**17. Sufficiency of Investments**

Neither the Trust, nor its Trustees or officials, shall have any responsibility for the adequacy or sufficiency of the Investments held or which may be held by the Trustees for the Fund.

**18. Trustees' Discretion**

In the exercise of their powers and functions in terms of these Regulations and in their consideration or determination of matters referred to herein, the Trustees shall have complete discretion to act in such manner and take such steps as they shall from time to time consider to be appropriate. Likewise, the Trustees shall have such complete discretion in the event of any ambiguity or inconsistency in these Regulations as to the interpretation thereof.

**19. Amendment of Regulations**

The General Assembly shall have power at any time to amend, alter, add to or revoke all or any of the foregoing Regulations or to substitute new Regulations in whole or in part.

**CHURCH OF SCOTLAND  
INVESTORS TRUST**

**INCOME FUND**

**REGULATIONS made by the General Assembly of The Church of Scotland with reference to the Income Fund of The Church of Scotland Investors Trust, in exercise of powers contained in Section 41 of the Church of Scotland (Properties and Investments) Order Confirmation Act 1994.**

1. These Regulations shall operate as from 31st May 1998 and shall supersede all existing Byelaws and Regulations relating to the Fund.

**2. Interpretation and Definitions**

2.1 In these Regulations, unless the context shall otherwise require, the following words and expressions shall have the meanings hereinafter assigned to them:

**the Church** means The Church of Scotland;

**the Confirmation Act 1994** means the Church of Scotland (Properties and Investments) Order Confirmation Act 1994, including the Schedule thereto, as amended from time to time;

**the Fund** means the Income Fund of the Trust;

**the General Assembly** means the General Assembly of the Church;

**Investments** means all or any of the investments in which the Trust may invest in terms of the Confirmation Act 1994;

**Investor** means any of the bodies or persons who shall invest in the Fund or, where the context so requires, holds Units in the Fund, and for whom the Trust may hold or receive property in terms of the Confirmation Act 1994, such bodies or persons being, at the time of making these Regulations, the following: the Church or any court of the Church or council or committee of the General Assembly or any association, fund or scheme of the Church or any congregation, financial board of a congregation or other ecclesiastical body or organisation of the Church; or, in respect of property held by a

trustee or body of trustees for any of the foregoing bodies or persons, any such trustee or body of trustees; or any other body or person for whom The Church of Scotland Trust held moveable property prior to such property being transferred to the Trust in terms of the Confirmation Act 1994 in relation to such property only, and **Investors** shall be construed accordingly;

**a Month-End Statement** means a statement prepared by the Trustees in accordance with Regulation 6 hereof;

**the Trust** means The Church of Scotland Investors Trust;

**the Trustees** means the members of the Trust; and

**a Unit** means a Unit in respect of which income is to be distributed in accordance with these Regulations and which represents one undivided share in all the net assets for the time being held by the Trustees in respect of the Fund but excluding any amount of income which for the time being the Trustees have become obliged to distribute pursuant to these Regulations and **Units** shall be construed accordingly.

- 2.2** In these Regulations, unless the context otherwise requires, a reference to the singular includes a reference to the plural and vice versa and a reference to any gender includes a reference to all other genders.

**3. Powers of Investment and Investment Objectives**

The Trustees shall have power to apply money invested in the Fund in Investments as defined in Regulation 2.1 hereof. Such investments shall be regarded as made for the common benefit of the Investors. In the exercise of their power of investment, the Trustees shall have regard to any direction or deliverance of the General Assembly on the suitability of particular Investments, and shall give effect to any such direction or deliverance to the extent that the Trustees consider that doing so conforms with the duties owed by the Trustees to the Investors in the Fund. The investment objectives of the Fund shall be those determined by the Trustees from time to time. A statement of those objectives in respect of the Fund for the time being shall be included in each Annual Report of the Trust referred to in Regulation 11 hereof.

**4. Property which may be invested in the Fund**

The Trustees may accept in respect of the Fund from or on behalf on any Investor any money held by such Investor for any Church purpose, which the Investor desires to invest in the Fund. The Trustees shall in their discretion be free in any event to decline to accept such money.

**5. Unit Basis**

The Fund shall be divided into Units. The Trustees shall have power at any time to determine that each Unit issued in respect of the Fund shall be sub-divided into two or more Units or consolidated with one or more other Units issued, whereupon each such Unit shall stand sub-divided or consolidated accordingly and the share of the Fund represented by each Unit as so sub-divided or consolidated, shall be adjusted and each Investor credited appropriately. Existing Investors in the Fund shall remain credited, immediately after the coming into operation of these Regulations, with the same number of Units as they were so credited immediately before.

**6. Month-End Statements**



The Trustees shall, for the purposes of calculating the price of Units, prepare a statement at the end of each calendar month (hereinafter called "Month-End Dates") showing (a) the total number of Units held by Investors, and (b) the net assets of the Fund as determined by the Trustees.

**7. Calculation of Unit Price at a Month-End Date**

The price per Unit on acquisition or disposal of Units at each of the Month-End Dates shall be calculated to the nearest penny by dividing the value of the net assets of the Fund as determined by the Trustees in the relevant Month-End Statement by the total number of Units stated in the said Month-End Statement.

**8. Method of Investment**

Intending Investors wishing to invest money in the Fund shall invest in the desired number of Units either at a price to be determined by the Trustees in accordance with Regulation 7 as at the immediately preceding Month-End Date or, if the Trustees so decide, at such other price as the Trustees may determine based upon the value of the net assets of the Fund as at the date of the Investor making the relevant Investment. Notwithstanding the terms of any other provisions of these Regulations, the Trustees shall have complete discretion to refuse to accept any investment by any Investor whether an existing Investor or not. The intending Investor shall be informed of the price per Unit as soon as possible after completion of either the calculation of the price made in accordance with Regulation 7 as at the immediately preceding Month-End Date or the calculation by the Trustees of such other price as they shall determine in accordance with the terms of this Regulation, as the case may be. The Investor shall then have the option, to be exercised within such period as the Trustees shall from time to time in their discretion permit, or either making the investment (in whole or in part) or intimating its intention not to invest. If the Investor fails to exercise such option within such period so permitted by the Trustees, the Trustees may decline to accept such money for the investment.

**9. Method of Withdrawal of Investment**

Investors wishing to withdraw money from the Fund shall realise the desired number of Units either at a price to be determined by the Trustees in accordance with Regulation 7 as at the immediately preceding Month-End Date or, if the Trustees so decide, at such other price as the Trustees may determine based upon the value of the net assets of the Fund as at the date of the Investor making the relevant withdrawal. The Investor shall be informed of the price per Unit as soon as possible after completion of either the calculation of the price made in accordance with Regulation 7 as at the immediately preceding Month-End Date or the calculation by the Trustees of such other price as they shall determine in accordance with the terms of this Regulation, as the case may be. The Investor shall then have the option, to be exercised within such period as the Trustees shall from time to time in their discretion permit, of either completing the withdrawal (in whole or in part) or cancelling the request therefor, in which latter case such request shall lapse. If the Investor fails to exercise such option within such period so permitted by the Trustees, the Trustees shall be entitled to treat the request for withdrawal as having lapsed.

**10. Capital and Revenue**

All income received for the Fund shall be treated as Revenue and carried to a Revenue Account, or its equivalent as shall from time to time be in existence (as determined by the Trustees). All management, administrative or other expenses incurred on behalf

of the Fund shall, in the first instance, be deducted from the Revenue Account. Notwithstanding the foregoing, the Trustees shall have power to apportion any such expenses in respect of the Fund between the Revenue Account and the Capital Account or its equivalent, as shall from time to time be in existence, (as determined by the Trustees). All gains and losses on the realisation of Investments on behalf of the Fund shall be treated as Capital and respectively credited or debited to the Capital Account. The Trustees shall have power to make such transfers in respect of the Fund as they think desirable from the Revenue Account to the Capital Account and similarly to make transfers in respect of the Fund from the Capital Account to the Revenue Account.

**11. Preparation and Audit of Financial Statements**

The Trustees shall prepare Financial Statements in respect of the Fund for each year to 31st December, which shall be included within the Annual Report and Financial Statements in respect of the Trust separately from the other Financial Statements included therein. The Financial Statements of the Fund shall be prepared in accordance with such current generally accepted accounting principles as the Trustees shall in their entire discretion consider to be appropriate to the Fund or to the Trust. The Financial Statements of the Fund shall be audited by Registered Auditors. The Annual Report shall include a report of the Auditors and together with the Financial Statements shall be laid before the General Assembly at its annual meeting in the year following the period to which they relate.

**12. Distributions**

A distribution of income in respect of the Fund shall be declared for each half-year period to 30th June and 31st December (or for such other periods as the Trustees shall consider appropriate) by the Trustees out of the balance in respect of the Fund in the Revenue Account, after any transfers made in accordance with Regulation 10 hereof. Distributions for the previous complete half-year period at the rate so declared shall be paid to Investors on 15th September and 15th March respectively in each year (and/or at such other times as the Trustees shall consider appropriate). Investors in the Fund shall participate in such distributions in proportion to the number of Units held at the month end immediately preceding the due date of payment of such distributions.

**13. Transfer of Units**

Investors may transfer Units held by issuing instructions in writing to the Trustees provided that the proposed transferee satisfies the conditions for eligibility as an Investor, as defined in Regulation 2.1 hereof. No transfer shall be registered unless the transferee satisfies the said conditions for eligibility.

**14. Eligibility of Investors**

**14.1** The Trustees may at any time and from time to time, call upon any body, either before or after such body shall have been registered as an Investor, by notice in writing, to establish that it satisfies or continues to satisfy the conditions for eligibility as an Investor, as defined in Regulation 2.1 hereof and for that purpose to furnish the Trustees with all information and evidence requisite for that purpose and also to furnish to the Commissioners of Inland Revenue such evidence as the said Commissioners may require for the like purpose.

**14.2** Any holder of Units ceasing to satisfy the conditions for eligibility as an Investor as defined in Regulation 2.1 hereof shall thereupon immediately inform the Trustees and shall either transfer all of its Units to a person or body satisfying the said conditions for eligibility within seven days of the date upon which it ceases to satisfy the said conditions in accordance with Regulation 13 or shall realise all of its Units at the next Month-End Date.

**15. The Fund as a Distinct Entity**

The whole assets of the Fund shall be held, and the whole Investments of the Fund shall be made by the Trustees, solely for the benefit of the Investors of the Fund. The investors of any other fund or funds administered by the Trustees in respect of the Trust shall have no right, title or interest in or to the said assets and Investments and shall have no right to payment of interest or distributions or otherwise from the income or assets of the Fund. The said assets and Investments of the Fund are not transferable to any such other fund or funds in any way.

**16. Winding up**

The General Assembly shall have power at any time to authorise the winding up of the Fund. In the event of a winding up of the Fund, the whole Investments and other net assets of the Fund or the proceeds of sale thereof, less expenses of winding up, shall be divided among the Investors in the Fund *pro-rata* according to the number of Units then held by the respective Investors in the Fund, subject to such Regulations as may be made by the General Assembly for regulating the winding up of the Fund.

**17. Sufficiency of Investments**

Neither the Trust, nor its Trustees or officials, shall have any responsibility for the adequacy or sufficiency of the Investments held or which may be held by the Trustees for the Fund.

**18. Trustees' Discretion**

In the exercise of their powers and functions in terms of these Regulations and in their consideration or determination of matters referred to herein, the Trustees shall have complete discretion to act in such manner and take such steps as they shall from time to time consider to be appropriate. Likewise, the Trustees shall have such complete discretion in the event of any ambiguity or inconsistency in these Regulations as to the interpretation thereof.

**19. Amendment of Regulations**

The General Assembly shall have power at any time to amend, alter, add to or revoke all or any of the foregoing Regulations or to substitute new Regulations in whole or in part.

**CHURCH OF SCOTLAND  
INVESTORS TRUST**

**DEPOSIT FUND**

**REGULATIONS made by the General Assembly of The Church of Scotland with reference to the Deposit Fund of The Church of Scotland Investors Trust, in exercise of powers contained in Section 41 of the Church of Scotland (Properties and Investments) Order Confirmation Act 1994.**

1. These Regulations shall operate as from 31st May 1998 and shall supersede all existing Byelaws and Regulations relating to the Fund.

**2. Interpretation and Definitions**

2.1 In these Regulations, unless the context shall otherwise require, the following words and expressions shall have the meanings hereinafter assigned to them:

**the Church** means The Church of Scotland;

**the Confirmation Act 1994** means the Church of Scotland (Properties and Investments) Order Confirmation Act 1994, including the Schedule thereto, as amended from time to time;

**Depositor** means any of the bodies or persons who shall invest in the Fund or, where the context so requires, holds money on deposit in the Fund, and for whom the Trust may hold or receive property in terms of the Confirmation Act 1994, such bodies or persons being, at the time of making of these Regulations, the following: the Church or any court of the Church or council or committee of the General Assembly or any association, fund or scheme of the Church or any congregation, financial board of a congregation or other ecclesiastical body or organisation of the Church; or, in respect of property held by a trustee or body of trustees for any of the foregoing bodies or persons, any such trustee or body of trustees; or any other body or person for whom The Church of Scotland Trust held moveable property prior to such property being transferred to the Trust in terms of the Confirmation Act 1994 in relation to such property only, and **Depositors** shall be construed accordingly;

**the Fund** means the Deposit Fund of the Trust;

**the General Assembly** means the General Assembly of the Church;

**Investments** means all or any of the investments in which the Trust may invest in terms of the Confirmation Act 1994;

**the Trust** means The Church of Scotland Investors Trust; and

**the Trustees** means the members of the Trust.

2.2 In these Regulations, unless the context otherwise requires, a reference to the singular includes a reference to the plural and vice versa and a reference to any gender includes a reference to all other genders.

**3. Powers of Investment and Investments Objectives**

The Trustees shall have power to invest money deposited in the Fund in Investments coming within the above definition. In exercise of their power of investment, the Trustees shall have regard to any direction or deliverance of the General Assembly on the suitability of particular Investments and shall give effect to any such direction or deliverance to the extent that the Trustees consider that doing so conforms with the duties owed by the Trustees to the Depositors in the Fund. The investment objectives of the Fund shall be determined by the Trustees from time to time. A statement of these objectives in respect of the Fund for the time being shall be included in each Annual Report of the Trust referred to in Regulation 7 hereof.

**4. Property which may be invested in the Fund**

4.1 The Trustees may accept in respect of the Fund from or on behalf of any Depositor any money held by such Depositor for any Church purpose, which the Depositor

desires to deposit in the Fund. The Trustees shall have discretion to fix from time to time a minimum amount of money which may be so deposited in the Fund. The Trustees shall have complete discretion to decline to accept any such money from any Depositor whether an existing Depositor or not.

- 4.2 Existing Depositors in the Fund shall remain credited, immediately after the coming into operation of these Regulations, with the same amount of money deposited as they were so credited immediately before.

**5. Method of Withdrawal of Deposit**

Deposits of less than £100,000 may be withdrawn from the Fund without prior notice being given. Depositors wishing to withdraw deposits of £100,000 or more shall give one week's notice of their intention to withdraw such deposit.

**6. Capital and Revenue**

All income received for the Fund shall be treated as Revenue and carried to a Revenue Account, or its equivalent as shall from time to time be in existence (as determined by the Trustees). All management, administrative or other expenses incurred on behalf of the Fund shall, in the first instance, be deducted from the Revenue Account. Notwithstanding the foregoing, the Trustees shall have power to apportion any such expenses in respect of the Fund between the Revenue Account and the Capital Account or its equivalent, as shall from time to time be in existence, (as determined by the Trustees). All gains and losses on the realisation of investments on behalf of the Fund shall be treated as Capital and respectively credited or debited to the Capital Account. The Trustees shall have power to make such transfers in respect of the Fund as they think desirable from the Revenue Account to the Capital Account and similarly to make transfers in respect of the Fund from the Capital Account to the Revenue Account.

**7. Preparation and Audit of Financial Statements**

The Trustees shall prepare Financial Statements in respect of the Fund for each year to 31st December, which shall be included within the Annual Report and Financial Statements in respect of the Trust separately from other Financial Statements included therein. The Financial Statements of the Fund shall be prepared in accordance with such current generally accepted accounting principles as the Trustees shall in their entire discretion consider to be appropriate to the Fund or to the Trust. The Financial Statements of the Fund shall be audited by Registered Auditors. The Annual Report shall include a report of the Auditors and together with the Financial Statements shall be laid before the General Assembly at its annual meeting in the year following the period to which they relate.

**8. Payment of Interest**

A rate of interest shall be declared for each quarter to 31st March, 30th June, 30th September and 31st December (or for such other periods as the Trustees shall consider appropriate) by the Trustees out of the balance in the Revenue Account in respect of the Fund, after any transfers referred to in Regulation 6. Interest for the two complete preceding quarters at the rates so declared in respect of each quarter shall be either distributed or credited to Depositors (in accordance with the instructions given from time to time by each Depositor in this respect) on 15th May and 15th November in each year (and/or at such other times as the Trustees shall consider appropriate). Depositors in the Fund shall participate in such interest in respect of the Fund in proportion to the sums held on deposit in the Fund during each quarter. The total interest for each quarter shall be calculated on a daily basis by applying the rate of

interest in force on a particular day to the balance of the account at the close of business of that day.

**9. Transfer of Deposits**

Depositors may transfer deposits held by issuing instructions in writing to the Trustees provided that the proposed transferee satisfies the conditions for eligibility as a Depositor, as defined in Regulation 2.1 hereof. No transfer shall be registered unless the transferee satisfies the said conditions for eligibility.

**10. Eligibility of Depositors**

**10.1** The Trustees may at any time and from time to time, call upon any body, either before or after such body shall have been registered as a Depositor, by notice in writing to establish that it satisfies or continues to satisfy the conditions for eligibility as a Depositor, as defined in Regulation 2.1 hereof and for that purpose to furnish the Trustees with all information and evidence requisite for that purpose and also to furnish to the Commissioners of Inland Revenue such evidence as the said Commissioners may require for the like purpose.

**10.2** Any Depositor ceasing to satisfy the conditions for eligibility as a Depositor as defined in Regulation 2.1 hereof shall thereupon immediately inform the Trustees and shall either transfer all its deposits to a person or body satisfying the said conditions for eligibility within seven days of the date upon which it ceases to satisfy the said conditions in accordance with Regulation 9 hereof or shall withdraw all of its deposits in accordance with Regulation 5.

**11. The Fund as a Distinct Entity**

The whole assets of the Fund shall be held, and the whole Investments of the Fund shall be made, by the Trustees solely for the benefit of the Depositors of the Fund. The Investors of any other fund or funds administered by the Trustees in respect of the Trust shall have no right, title or interest in or to the said assets and Investments and shall have no right to payment of interest or distributions or otherwise from the income or assets of the Fund. The said assets and Investments of the Fund are not transferable to any such other fund or funds in any way.

**12. Winding up**

The General Assembly shall have power at any time to authorise the winding up of the Fund. In the event of a winding up of the Fund the whole Investments and other net assets of the Fund or the proceeds of sale thereof, less expenses of winding up, shall be applied *pro rata* in the repayment to the Depositors of the Fund of deposits then held in the Fund, with interest due thereon, subject to such Regulations as may be made by the General Assembly for regulating the winding up of the Fund. Any excess remaining thereafter shall be applied for any Church purpose as the General Assembly may determine.

**13. Sufficiency of Investments**

Neither the Trust, nor its Trustees or officials, shall have any responsibility for the adequacy or sufficiency of the Investments held or which may be held by the Trustees for the Fund.

**14. Trustees' Discretion**

In the exercise of their powers and functions in terms of these Regulations and in their consideration or determination of matters referred to herein, the Trustees shall have complete discretion to act in such manner and take such steps as they shall from time

to time consider to be appropriate. Likewise, the Trustees shall have such complete discretion in the event of any ambiguity or inconsistency in these Regulations as to the interpretation thereof.

**15. Amendment of Regulations**

The General Assembly shall have power at any time to amend, alter, add to or revoke all or any of the foregoing Regulations or to substitute new Regulations in whole or in part.





## **V. CHURCH EXTENSION REGULATIONS (REGS V 2000) (AS AMENDED BY ACTS V AND VIII 2003)**

*Edinburgh, 24 May 2000, Session 6*

### **Interpretation**

1. For the purposes of these Regulations the following terms shall be deemed to have the meanings hereby assigned to them:
  - "The Committee" shall mean the New Charge Development Committee of the Ministries Council.
  - "The Parish Appraisal Committee" shall mean the General Assembly's Parish Appraisal Committee.
  - "The Presbytery" shall mean the Presbytery of the bounds of the Church Extension Charge or charge concerned.
  - "A Church Extension Charge" shall mean a new or newly established sphere of pastoral duty which was formed in terms of Regulations 3, 1995 or the preceding Regulations thereto.
  - "A Church Extension congregation" shall mean a company of persons associated together for Christian worship, fellowship, instruction, mission and service in a Church Extension 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 oversight of a provisional Kirk Session (hereinafter referred to as "the Kirk Session").

### **Appointment of Ministers**

2. The following procedure shall apply to all ministerial appointments made after the date of approval and adoption of these Regulations, which appointments shall be on the basis of reviewable tenure viz:
  - (i) The Presbytery shall consult with the Kirk Session and the Committee and, provided it is agreed that a new appointment shall be made, the Kirk Session shall draw up an Electoral Register in accordance with the provisions of Section 13 of Act VIII 2003. An interviewing panel shall be formed which shall consist of four (4) representatives from the Committee together with one (1) representative of the Presbytery and one (1) representative of the Kirk Session, each representative to have a vote. The panel shall bring a nomination for the Committee to appoint to the Church Extension Charge.
  - (ii) If the appropriate Committee of the Presbytery is satisfied with the nominee, the interim moderator shall arrange that the nominee preach to the Congregation.
  - (iii) The interim moderator shall thereafter invite the Congregation to indicate whether or not the nominee is acceptable to it, only those whose names are on the Electoral Register being entitled to vote, and shall intimate the outcome to the Committee.
  - (iv) If the Committee is satisfied that the nominee is acceptable to the Congregation, it shall make the appointment, subject to the concurrence of the Presbytery.
3. In the event of the Minister appointed being a probationer or a minister without charge, the Presbytery shall take the necessary steps for ordination, if required, and induction to the Church Extension Charge.
4. The Minister shall be responsible with the Kirk Session for the pastoral oversight of the area allotted to the Church Extension Charge and shall also be responsible to the Committee for the development of the Charge.

### **Administration of Spiritual and Temporal Affairs**

5. The administration of the spiritual affairs of a Church Extension Charge shall be in the hands of a Kirk Session of which the minister shall be Moderator. Initially, all new elders who shall be members of the Church Extension congregation shall be sanctioned by the Presbytery. After the Church Extension Charge has been formed for more than three years, the Kirk Session itself may authorise the ordination of further elders at its own discretion.
6. The Kirk Session of a Church Extension Charge shall have the right to appoint a representative elder to Presbytery.
7. The temporal affairs of a Church Extension Charge shall be managed by a Committee of the Kirk Session composed of the Kirk Session, together with a number of members, over the age of 18, elected by the congregation at a meeting duly called for the purpose, the number of members thus elected not to exceed the number of the Kirk Session. One third of the elected members shall retire annually but shall be eligible for re-election. The minister shall normally be chairman of this Committee, but should he or she not wish so to act, the Committee may elect one of its members as chairman for the ensuing year. Said member shall be eligible for re-election at the end of each year in office.

#### **Payment of Stipend**

8. (a) The stipend appropriate to a Church Extension Charge shall normally be the minimum stipend plus the service supplement (if any) to which the Minister concerned is entitled. This shall be met on the basis of the Financial Schedule referred to in Section 9 hereof.
- (b) In the case of any Minister not eligible to receive service supplement, the Committee shall meet the cost of a "Church Extension Charge supplement" which shall be the sum of £800 per annum or such other sum as the Committee, in consultation with the Ministries Council, may from time to time fix. Payment of such supplement will cease on the Minister concerned becoming eligible to receive stipend service supplements.

#### **Financial Responsibility of Church Extension Charges**

9. A Church Extension Charge shall from its formation provide for its ordinary expenses. A Financial Plan and an appropriate Financial Schedule relating to Stipend shall be agreed among the Kirk Session the Presbytery, the Committee and the Ministries Council, the purpose of which shall be to fix appropriate contributions to be made by the Church Extension Congregation towards:
  - (a) the sums being paid by the Ministries Council by way of Stipend and, if appropriate, Service supplement; and
  - (b) the cost of its buildings as incurred by the Committee.
 In addition, the congregation shall endeavour to contribute to the Mission and Renewal Fund, the relative contribution thereto to be allocated by the Presbytery.
10. The Committee shall have a general control over the entire expenditure of a Church Extension Charge and the annual budget and statement of accounts in the form approved by the General Assembly for use by congregations generally shall be submitted to the Committee for examination and approval. The Committee shall further be entitled to receive a copy of the Annual Accounts from any Church Extension Charge which has subsequently attained full status until such time as the outstanding liabilities of the former Church Extension Charge to the Committee have been repaid.
11. The Committee shall be responsible for the maintenance and insurance of all the heritable properties of the Church Extension Charge and for all other outgoings with respect thereto.
12. The Committee shall commission and obtain professional reports on the condition of the ecclesiastical properties of each Church Extension Charge five years after its

formation 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**

13. It shall be open to a Church Extension Charge to apply for full status at any time after it has been in existence for five years and, in normal circumstances, it is expected to do so before the eleventh anniversary of its constitution. It shall be open, at any time, to the Presbytery (with the agreement of the Committee and the Ministries Council) to take the initiative towards the erection to full status of any Church Extension Charge within its bounds.
14. An Application by a Church Extension Charge for full status shall be submitted, in the first instance, to the Presbytery of the bounds. If the Presbytery is of the opinion that the Application merits consideration at that time, it shall forward the Application to the Committee along with such other information regarding the life and witness of the Church Extension Charge as it considers relevant. Said Application shall require to be lodged with the Committee by 31st October if it is to be submitted to the next General Assembly and shall require to be transmitted by the Committee to the Delegation of Assembly on or before 31st January.
15. The Committee, 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 Church Extension 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 Committee shall provide the sum of £2,000 or such other sum as the Committee, 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; and (ii) such sum as the Baird Trust may make available.
16. The Committee shall further consult with the Ministries Council, the concurrence of which shall be required in the proposed stipend arrangements.
17. There shall be transmitted thereafter by the Committee to the Delegation of Assembly the following documents:
  - (a) A Report from the Committee containing such information regarding the Charge as shall enable the General Assembly to make a judgement as to whether it is appropriate that it should be granted full status, which Report shall further include as a draft Deliverance a paragraph in the following terms:

"The General Assembly resolves to raise the Church Extension Charge(s) of XXXXXXXX into (a) Parish(es) and to pass (an) Act(s) thereanent in terms of the draft set out in the Appendix to the Report".

The proposed Act shall be in the style of the draft Act appended hereto;
  - (b) Extract Minute of the Church of Scotland General Trustees concurring in the proposals; and
  - (c) Extract Minute of the Ministries Council concurring in the stipend arrangements.
18. The Solicitor of the Church shall, under the direction of the Delegation, then proceed with the preparation of the necessary documents, including the proposed new Deed of Constitution of the Charge, so that they may be ready for signature immediately after the passing of the Act of Assembly. In all cases, the Church Extension 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 Committee in consultation with the Kirk Session and the Presbytery.

19. The Delegation shall thereafter issue the new Deed of Constitution. The Act of Assembly shall (unless otherwise provided in the Act itself) take effect at the date of issue of the Deed of Constitution.
20. The whole procedure shall, if possible, be completed by 1st July immediately following upon the passing of the Act of the General Assembly. The whole expenses incurred shall be borne in equal shares by the congregation and by the Committee.
21. On the Church Extension Charge attaining full status, the Committee's responsibilities and rights of oversight of the congregational properties shall cease. 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.
22. For the avoidance of doubt, these Regulations shall apply to all Church Extension Charges formed before 11th May 1999.
23. Regulations 3 1995 are hereby repealed.

## APPENDIX

### ACT ANENT ERECTING CHURCH EXTENSION 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*
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 the Regulations; 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.

**III. FURTHER ENDOWMENT FOR STIPEND REGULATIONS (REGS III 2001) (AS AMENDED BY REGULATIONS IV 2002)**

*Edinburgh, 24 May 2001, Session 7*

1. The limits for investment in Further Endowment for stipend are as follows:
  - (a) Following the approval of the grant, the average of the charge's contribution to stipend over the previous three years, together with the current year's endowments, must be not more than £17,900 and the endowments must be raised to not more than £4,300.
  - (b) Further Endowment capital will be bought directly into the Consolidated Stipend Endowment Fund and the relevant Grant allocated every quarter. The pre-determined price will be the previous quarter's price, any movement in price being met by the Committee.
2. Dividends are payable from the date of entry into the Fund at the rate of return quoted from the Consolidated Stipend Fund.



#### **IV. CONSOLIDATED STIPEND FUND REGULATIONS (REGS IV 2001) (AS AMENDED BY REGULATIONS III 2003)**

*Edinburgh, 25 May 2001, Session 8*

##### **(A) General**

1. A Consolidated Stipend Fund (hereinafter referred to as “the Fund”) having been created on 1st January 1982, the following regulations will apply to it.
2. The Fund will be administered by the General Trustees and may be invested through the medium of the Church of Scotland Investors Trust. Any investment policy changes will be put into effect by the General Trustees only after consultation with the Board of Ministry.
3. The General Trustees will be entitled to an administration charge in respect of their intromissions with the Fund of such amount as may be agreed from time to time by the Board of Ministry and the General Trustees or, failing agreement, determined by the Board of Stewardship and Finance.
4. The shares currently held in the Fund for behoof of a congregation will, subject to these regulations, continue to be held for behoof of that congregation.

##### **(B) Distributions from Fund**

1. Not later than 31st October in each year, the General Trustees will, after consultation with the Board of Ministry, determine the dividend which it is proposed to pay on each share in the Fund in the following year. It is stipulated for the avoidance of doubt that the General Trustees are empowered to pay a proportion of such dividend out of the capital of the Fund.
2. The General Trustees will account to the Board of Ministry quarterly on 31st March, 30th June, 30th September and 31st December in each year for the amount to be paid by way of dividend on shares.

##### **(C) Introduction of New Capital**

New capital may be introduced to the Fund at the beginning of each calendar month or at such other times as may be determined by the General Trustees and the number of shares to be attributed to such new capital will be ascertained by dividing the total value of the capital of the Fund before the introduction of the new capital by the number of shares in issue at that date, the share value thus produced being divided into the new capital to determine the number of new shares.

##### **(D) Withdrawal of Capital**

Capital may be withdrawn from the Fund at the beginning of each calendar month or at such other times as may be determined by the General Trustees by the encashment of shares; the value of the shares to be withdrawn will be ascertained by dividing the total value of the capital of the Fund before the withdrawal of the capital by the number of shares in issue at that date, the share value thus produced being multiplied by the number of shares being withdrawn, in order to determine their aggregate value.

##### **(E) Treatment of Glebe Sales**

The net proceeds of glebe land will constitute new capital for the Fund and these will be introduced as provided under (C) above.

##### **(F) Glebe Rents**

1. Rents from glebes vested in or administered by the General Trustees (hereinafter referred to as “the Rents”) will continue to be collected by the General Trustees but will not form part of the income of the Fund.
2. The General Trustees will be entitled to a collection charge on the Rents of such amount as may be agreed from time to time by the Board of Ministry and the General

Trustees or, failing agreement, as may be determined by the Board of Stewardship and Finance.

3. The General Trustees will account to the Board of Ministry quarterly on 31st March, 30th June, 30th September and 31st December in each year for the Rents.
4. The Board of Ministry and the General Trustees are empowered to make such arrangements as may seem appropriate to them from time to time for the funding of expenses falling upon the General Trustees relative to glebes.

**(G) Further Endowment of Stipend**

1. These regulations are without prejudice to the regulations for creating further stipend endowments by supplementing local capital.
2. Such further endowments of stipend will be introduced into the Fund as New Capital as set out in (C) above.

**(H) Application of Income**

The income on shares in the Fund and the Rents will be applied by the Board of Ministry towards the cost of providing for the benefiting congregation, as such benefiting congregation is determined by the General Trustees in terms of Section 2 of the Regulations anent the Application of Stipend and Fabric Endowments held by The Church of Scotland General Trustees (Regulations V 1995 as amended), a minister and other members of the ministry team as defined in Section 16 of Act VII 2003.

**(I) Powers of the Church of Scotland General Trustees**

For removal of any doubt it is declared that the provisions of these regulations are without prejudice to the powers delegated to the Board of Ministry (coming in place of the Committee on the Maintenance of the Ministry) and to the General Trustees by Act VII 1995 anent Powers delegated to The Church of Scotland General Trustees and Regulations V 1995 anent the Application of Stipend and Fabric Endowments held by The Church of Scotland General Trustees.

**(J) Repeal**

Regulations anent a Consolidated Stipend Fund (Rules and Regulations VI 1981 as amended) are hereby repealed.



## **VII. NATIONAL STIPEND SCHEME REGULATIONS (REGS VII 2003)**

*Edinburgh, 22 May 2003, Session 7*

### **The National Stipend Fund**

- 1 The National Stipend Fund will be funded from congregational contributions and income from the National Stipend Fund.
- 2 Payments from the National Stipend Fund will cover:
  - (a) stipend payments to Ministers and related employers' National Insurance payments;
  - (b) a contribution to the Church of Scotland Main Pension Fund;
  - (c) a contribution to the Church of Scotland's Housing and Loan Fund which will have an upper limit of two per cent of the estimated total cost of congregational stipends and other congregational support costs as defined by the Ministries Council from time to time.

### **Determination of Scales**

- 3 The National Stipend Scale will be determined in respect of each calendar year by the Ministries Council and reported to the following General Assembly.
- 4 The Ministries Council will calculate and declare annually the scales of additional payments which may be paid to Parish Ministers who have eligible qualifying service and whose Charge qualifies under conditions determined from time to time by the Ministries Council.
- 5 The Ministries Council will declare annually the appropriate rate of vacancy allowance.
- 6 The Ministries Council will calculate and declare annually the Income bands and contribution rates to the National Stipend Fund payable by all congregations and the total budget to be allocated to congregations for the National Stipend Fund shall not exceed the total share of the Co-ordinated Budget awarded by the General Assembly to Ministry Funds.

### **Qualifying Stipend Service**

- 7 In respect of each Minister receiving stipend, the appropriate point on the National Stipend Scale will be calculated according to the length of qualifying service as defined below; the exact length of all such periods of service to be added together to determine the number of qualifying years.
- 8 Qualifying service is defined as all ordained service listed in Sections 11, 12, 13 and 14 of Act III 2000 (Consolidating Act anent Church Courts) (as amended) or service in another church from which he or she has been admitted, provided the Ministries Council determines such service to be the equivalent of that herein listed.
- 9 Qualifying service is calculated on the basis of full-time and part-time service, with the payment of part-time service calculated on a *pro rata* basis.

### **Congregational Contributions to the National Stipend Fund**

- 10 The Ministries Council will determine annually the contribution to the National Stipend Fund of each congregation, whether vacant or not, calculated on the congregational income determined under Regulations I 2002 (for Allocating the Mission and Aid Fund).
- 11 The contribution will be payable net of the Consolidated Stipend Fund income and Glebe income of the congregation. In the event of the total of a congregation's Consolidated Stipend Fund income and Glebe income being greater than its contribution then the net contribution payment will be nil. The total of the Consolidated Stipend Fund income and Glebe income of any congregation is, therefore, its minimum contribution to the National Stipend Fund.
- 12 The Ministries Council will provide figures for congregational contributions to the National Stipend Fund and figures for additional congregational payments to Parish Ministers (as

permitted by Regulation 4) for the following financial year to the General Treasurer by 15 November each year.

13 These regulations will come into force on 1 January 2004.

## VIII. MATERNITY, PATERNITY AND ADOPTION LEAVE AND PAY FOR MINISTERS REGULATIONS (REPEALING REGULATIONS V 1986 AS AMENDED) (REGS VIII 2003)

Edinburgh, 22 May 2003, Session 7

Ordained Ministers shall be entitled to maternity, paternity and adoption leave and pay in accordance with the following provisions:

### 1 Maternity Leave

- (a) These provisions shall apply to ordained female Ministers of the Church of Scotland in recognised appointments where stipend or salary is paid through the centralised Payment of Stipend Scheme.
- (b) The Minister shall continue to carry out ministerial duties up to at least the last working day before the beginning of the eleventh week before the expected week of childbirth.
- (c) The Minister shall cease to undertake ministerial duties during the period of maternity leave. The period of ordinary maternity leave to which the Minister shall be entitled is twenty-six weeks. In addition the Minister shall be entitled to a further period of up to twenty-six weeks additional maternity leave provided that she has been in the Stipend Scheme for at least twenty six continuous weeks by the date of notification to the Presbytery and the Board of Ministry.
- (d) The Minister shall notify in writing her Presbytery and the Board of Ministry of her expected week of childbirth at least fifteen weeks prior to that date (*i.e.* four weeks prior to the first possible date for the commencement of maternity leave). This notification should be accompanied by a certificate from a registered medical practitioner or midwife stating the expected week of childbirth.
- (e) Further written notice to the Presbytery and the Board of Ministry will be required to state the date when she wishes her maternity leave to start. This date cannot be before the eleventh week before the baby is due. Within twenty eight days of such notification the Board of Ministry shall write to the Minister setting out the date on which she is expected to return to duty if she takes her full entitlement to maternity leave. If a Minister wishes to return to duty before the end of her maternity leave she shall give twenty eight days notice in writing to the Presbytery and the Board of Ministry.
- (f) *Note:* It is essential that sufficient liaison is observed with the Minister's own Presbytery in order that arrangements can be finalised *re* the appointment of an Interim Moderator and other pastoral assistance.
- (g) When informing the Presbytery and the Board of Ministry as required in section 5 above the Minister shall also confirm that her absence will be wholly or partly due to her pregnancy or childbirth. She shall also declare her intention to return to ministerial duties on the expiry of her leave for a period of not less than three months.
- (h) The Minister shall not return to ministerial duties before she submits a written certificate from a medical practitioner stating that she is medically fit to return to do so.

### 2 Maternity Pay

- (a) Maternity leave with pay will be granted to a Minister who satisfies the relevant conditions within these Regulations.
- (b) Payment of full stipend will be maintained for a period of twenty six weeks, *e.g.* eleven weeks prior to the expected date of childbirth and to the fifteenth week after the date of childbirth.
- (c) The period of additional maternity leave shall normally be without payment of stipend. In exceptional circumstances the Board of Ministry may make payment of stipend for some of the period of additional maternity leave.

- (d) It shall be the Minister's own responsibility to claim the appropriate personal benefits from the Department of Work and Pensions. Such benefits as received shall be retained by the Minister for her own personal use.
- (e) The Board of Ministry shall process Statutory Maternity Pay (SMP). Such SMP and any Statutory Sick Pay as are recovered in respect of the Minister will be retained by the Board. The Board will meet in full the costs of interim pastoral expenses, e.g. payments to Locum, pulpit supply fees and related expenses.

### **3 Adoption Leave and Pay**

The provisions for adoption leave and pay shall mirror the provisions for maternity leave and pay with the following provisos:

- (a) To qualify for adoption leave and pay a Minister must be newly matched with a child by an approved adoption agency.
- (b) Notice of intention to take adoption leave must be given in writing to the Minister's Presbytery and to the Board of Ministry within seven days of being notified by their adoption agency that they have been matched with a child for adoption. As far as is reasonably possible the Minister shall allow sufficient time for the Presbytery to put in place the necessary pastoral assistance and to appoint an Interim Moderator.
- (c) Ministers giving notice of intention to take adoption leave must furnish the Board of Ministry with a matching certificate from their adoption agency as evidence of their entitlement to Statutory Adoption Pay.
- (d) Only one member of a couple adopting a child is entitled to adoption leave and pay. The other may be entitled to paternity leave and pay.

### **4 Paternity Leave**

- (a) A male Minister shall be entitled to two weeks paternity leave around the date of the birth of his child, or the placement of a child newly placed for adoption.
- (b) Paternity leave shall be taken in one block, normally within the first eight weeks of the child's birth or placement.
- (c) A Minister intending to take paternity leave shall inform his Presbytery and the Board of Ministry of his intention at least eight weeks before the expected date of childbirth or placement to allow the Presbytery to make any necessary arrangements for pulpit supply and pastoral cover. He shall also certify that he is entitled to paternity leave. A form for self-certification shall be provided by the Board of Ministry.

### **5 Paternity Pay**

- (a) A Minister on paternity leave shall be paid his full stipend.
- (b) The Board of Ministry shall process Statutory Paternity Pay (SPP). SPP recovered in respect of the Minister shall be retained by the Board. The Board shall meet in full the costs of interim pastoral expenses eg pulpit supply fees and related expenses.

### **Notes**

- 1 Where a Minister is to be absent on maternity leave or adoption leave, it is important that the Minister shall not be involved at all in ministerial duties within the Parish, or in the Church at large. It is for the Presbytery, in consultation with the Minister concerned, to consider and arrange for the requirements regarding necessary ministerial support within the Parish during the period of maternity leave.
- 2 In cases of hardship arising from maternity and adoption leave and pay arrangements, reference should be made to the Board of Ministry who shall have the power to take any action deemed necessary.

### **6 Repeal**

The regulations contained herein replace the Maternity Provisions for Women Ministers Regulations of 1986 (as amended by Regulations 1 1991).

#### **IV. VOLUNTARY ADDITIONAL PAYMENTS REGULATIONS (REGS IV 2005)**

*Edinburgh, 26th May 2005, Session VII*

1. In September, prior to the year of payment, the **Ministries Council** will notify Presbyteries, of those charges which are in a position to make Voluntary Additional Payments at 5% or 10% or 15% over the National Stipend Scale. **Presbyteries**, in turn, will inform charges of their position with regard to Voluntary Additional Payments and will set a date by which each charge and, where necessary each part of a charge, will notify Presbytery of their intention whether or not to make a Voluntary Additional Payment to stipend.
2. The **Ministries Council** will declare annually the three levels of Voluntary Additional Payment and the Income Base levels above which each may be paid.
3. The **Ministries Council** has the authority to withdraw a Voluntary Additional Payment if payments are not kept up to date in accordance with procedural note (c) below in the year following the failure to pay.
4. Eligible **charges** are responsible for making their own decision on what level the Voluntary Additional Payment they wish to make and for transmitting their decision in time for Presbytery agreement. See procedural note (a) below.
5. On receipt of the decision to make of a Voluntary Additional Payment, **Presbytery** shall have the power to agree or not to the payment being made, and shall advise the Ministries Council as to whether or not it concurs with the decision of the charge, by November of the calendar year prior to which the payment is due to be made.
6. It will be the responsibility of **Presbytery** to inform both the charge and the minister of their decision, whether or not it is concurred, by November of the calendar year prior to which the payment is due to be made. Where the charge is over-ruled by Presbytery they should be informed of the Presbytery's decision with reasons. **Presbyteries** should take into consideration knowledge of local financial circumstances and judge the sustainability of these payments before agreement is reached.
7. For the avoidance of doubt, in the case of a linked charge all congregations in the linkage have to agree to the Voluntary Additional Payment and **Presbytery** must ensure that agreement has been reached. Voluntary Additional Payments from linked congregations will be recovered in the same proportion as their income bases.
8. The **Ministries Council** will initiate the payment to the minister and collection of such a payment plus employer's national insurance from the charge.

#### **Procedural Notes**

- (a) The advised level of Voluntary Additional Payment to each eligible charge will be the maximum and charges may pay below the maximum at any of the fixed levels, but may not pay above the maximum notified. The levels for 2005 and 2006 are 5%, 10%, 15%.
- (b) Voluntary Additional Payments are payable for the whole year except where a vacancy occurs or where a charge fails to return payments in accordance with the procedures set out in section (c) below.
- (c) To be allowed to make Voluntary Additional Payments to stipend charges must remit their Voluntary Additional Payment to the Ministries Council by monthly standing order. Other

payments to the National Stipend Fund and Mission and Renewal Fund must be paid monthly and travel expenses should be paid on receipt of the quarterly invoice.

- (d) Presbyteries have a right to advise charges on the making of Voluntary Additional Payments but they do not have the power to instruct eligible charges to make Voluntary Additional Payments.
- (e) If a charge becomes vacant during the year the Voluntary Additional Payment must be reassessed through the vacancy schedule.
- (f) If a charge is vacant at the time of making a decision to make a Voluntary Additional Payment, the decision will be deferred until the vacancy schedule is processed.
- (g) If a charge has shortfalls or current year deficits in any of their central payments at the end of the year the right to pay the Voluntary Additional Payment will be withdrawn for the following year. The Presbyteries will be advised of such cases before withdrawal.

**I. ALLOCATIONS IN LOCAL ECUMENICAL PARTNERSHIPS REGULATIONS (REGS I 2007) (AS AMENDED BY REGS II 2022)**

*Edinburgh, 19 May 2007, Sess. II*

1. The allocation will be based on the income of the Local Ecumenical Partnership (LEP) in the previous financial year. For allocation purposes, the income of the LEP will include: offerings, tax recovered on Gift Aid, other donations, investment income, contributions from congregational organisations, and other general income, income in general fabric and reserve funds and net property rental income.

(Where the Church of Scotland is involved, the total annual income will include income in the Consolidated Stipend Fund or the Consolidated Fabric Fund held on behalf of the congregation by the Church of Scotland General Trustees.)

For the avoidance of doubt, legacies or capital receipts, such as the proceeds from the sale of property or investments; contributions from outside agencies for the use of premises; special collections for other charities; income from an external source to meet the costs of a specialist worker; and income in temporary capital funds for specific major projects will be excluded from the calculation of income for allocation purposes.

2. The total allocation will be 67% of the average income of the LEP, as calculated in section 1. In the first instance the allocation will be used for the provision of ministry in the LEP, and this cost will be paid to the denomination(s) providing that ministry. For this purpose, the cost of ministry will include stipend, employer's national insurance, pension contribution, and any other taxable emoluments paid by the denomination(s) providing ministry. Non-taxable expenses, such as a mileage allowance for travel, manse telephone, manse council tax, and pulpit supply during ministers' holidays will be paid by the congregation from residual funds.
3. The part of the allocation used for the provision of ministry will not exceed 95% of the total allocation. If this is not sufficient to meet the full costs of ministry, the cost of ministry will be supported by the denominations participating in the LEP.
4. Where more than one denomination is providing part of a ministry team, each denomination will receive the actual cost of, or the appropriate proportion of the cost of, the ministry it provides.
5. The remainder of the allocation to be paid by the LEP will be divided equally among the denominations involved in the LEP to support central and regional work undertaken by each of the denominations. (Where the Church of Scotland is involved, Presbytery Dues will be paid from its share of the remaining allocation.)
6. The allocation will be paid to the denomination(s) involved in the LEP at least quarterly, and preferably monthly, throughout the year.





## **VII. MANSES REGULATIONS (REGS VII 2007)**

*Edinburgh, May 25 2007 Sess. VIII*

### **The Basic Position**

1. A Minister's remuneration comprises both a stipend and a Manse. Accordingly, before a Minister is inducted to a vacant Charge, Presbytery has to be satisfied that there is a suitable Manse within the Parish or in close proximity and that all work needed to make it so has been carried out.
2. A Minister has the right to live in the Manse and a corresponding duty to occupy it.
3. Every Congregation has a duty through its Financial Board to provide a wind and watertight Manse which is habitable and to keep it in a good state of repair and decoration during its occupation by the Minister and family. The Minister should not have to spend his or her own stipend to achieve this.
4. A Minister must treat the Manse fabric, including fittings and fixtures with due care and consideration and, where these are provided by the local Congregation, must leave them in the Manse as the property of the Congregation's Financial Board.
5. Presbyteries must ensure that Manses are inspected at least once every year by the Congregational Fabric Committee, that the Manse Condition Schedule is annually reviewed and that both necessary repairs and agreed annual maintenance and decoration are undertaken.
6. In order to facilitate this process the Minister must allow for suitable arrangements to be made for this annual inspection and the Minister and Financial Board should agree on access being provided for the annual programme of maintenance and decoration to be carried out.
7. The Board must recognise its responsibility to have in place a rota for the systematic internal and external decoration of the Manse. (A recommended programme is shown as part of the Manse Guidelines).

### **The Regulatory Essentials**

In light of modern standards of comfort and expectation of what constitutes an acceptable working environment, it is appropriate for every congregation to provide a Manse which has:-

- An efficient heating system throughout.
- A lead-free supply of hot and cold running water.
- A modern wiring system with sufficient electrical sockets in all rooms.
- A kitchen with cooking facilities and sufficient work surfaces and storage.
- Bathroom and sanitary ware; at least one bathroom should have an efficient shower and there should be a separate toilet and washbasin for the use of visitors.
- Proper lighting in every part including sufficient exterior lighting.
- Carbon monoxide and smoke alarms on every floor and a fire blanket or extinguisher in the kitchen all compliant with current regulations.
- An annual check on gas, electrical and fire safety appliances. Maintenance arrangements should be in place for gas appliances.

- Adequate storage facilities for garden equipment, bicycles, *etc.*

**For the avoidance of doubt it is essential that the congregation:**

- Shall take responsibility for the completion of a Manse Condition Schedule and thereafter be responsible for its revision at the onset of a vacancy, a quinquennial inspection or at the completion of major works/repairs.
- Shall be responsible for the upkeep of the grounds where these extend beyond the bounds of a reasonable garden surrounding the property. Otherwise the minister shall be responsible, where the garden is of normal domestic proportions, for maintaining the garden and grounds in a neat and tidy condition. (The parameters for this will be set out in the Manse Condition Schedule).
- Shall budget to meet the costs of the agreed programme of redecoration and repair.

**VI. PULPIT SUPPLY REGULATIONS (AMENDING REGULATIONS II 2001) (REGS VI 2008)**

*Edinburgh, 19 May 2008, Session V*

Regulations II 2001 are hereby amended to read as follows:

1. In charges where there is only one diet of worship the Pulpit Supply Fee shall be a Standard Fee determined by the Ministries Council, implemented on a date of the Council's choosing, and notified to the next General Assembly.
2. In charges where there are additional diets of worship on a Sunday, the person fulfilling the Supply will be paid an additional sum for each additional Service, determined by the Ministries Council, implemented on a date of the Council's choosing, and notified to the following General Assembly.
3. Where the person is unwilling to conduct more than one diet of worship on a given Sunday, s/he will receive pro rata payment based on the total available fee shared on the basis of the number of Services conducted.
4. The fee thus calculated shall be payable in the case of all persons permitted to conduct Services under Act II 2000.
5. In all cases, necessary Travelling Expenses shall be paid. Where there is no convenient public transport, the use of a private car shall be paid at a rate determined by the Ministries Council, implemented on a date of the Council's choosing, and notified to the next General Assembly. In exceptional circumstances, to be approved in advance, the cost of hiring may be met.
6. Where weekend board and lodging are agreed as necessary, these may be claimed for the weekend at a maximum rate of that allowed when attending the General Assembly. The fee and expenses should be paid to the person providing the Supply before s/ he leaves on the Sunday.



## **VIII. APPLICATION OF A LEVY ON PROCEEDS OF SALE REGULATIONS (REGS VIII 2008) (AS AMENDED BY REGULATIONS V 2012 AND REGULATIONS III 2020)**

*Edinburgh, 21 May 2008, Sess.VII*

### **A. Definitions**

1. In these Regulations:-

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

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

“Central Fabric Fund” means the Fund formed in terms of Regulations VII 1979 (as amended by Regulations IV 1983 and II 1992, Deliverance 1994 and Regulations IV 1995, II 1998 and VI 2003).

“The Consolidated Fabric Fund” means the Fund formed in terms of Regulations VII 1995 (as amended by Regulations VII 2000 and V 2003).

“property” means all buildings and land for which Congregations are responsible, irrespective of whether these are vested in the General Trustees or in local trustees for Congregations but shall not include Glebe land vested in the General Trustees under Section 30 of the Church of Scotland (Property and Endowments) Act 1925.

“fabric project” includes works of repair, improvement and alteration at churches, halls and manses and replacement of and/or purchase of (sites for) churches, halls and manses.

### **B. Operation of Levy**

1. There shall be a levy (hereinafter referred to as “the levy”) applied to the net proceeds arising from the sale of all property in every case where the proceeds are required to be credited to the Consolidated Fabric Fund – ie where the property is vested either in the General Trustees or in local trustees who are subject to the control of the General Assembly so far as disposal and/or use of sale proceeds is concerned.
2. The levy shall also apply to the proceeds of sales of property which are vested in local Trustees who are not subject to the control of the General Assembly so far as disposal is concerned and where the proceeds would not be credited to the Consolidated Fabric Fund; and in such cases it shall be the responsibility of the Presbytery to inform the General Trustees accordingly.
3. Subject to the following sections, the levy shall in all cases be 10% of the net proceeds of sale.
4. Where, after the net proceeds of sale have been added to a Congregation’s existing holding (if any) in the Consolidated Fabric Fund, the total holding is less than £75,000 or such other figure as may be fixed by the General Assembly from time to time (hereinafter referred to as the “base figure”) no levy shall be deducted.
5. Where, after the net proceeds of sale have been added to a Congregation’s existing holding (if any) in the Consolidated Fabric Fund, the application of the levy would result in that total holding being less than the base figure, the levy shall be reduced to the extent that the total holding shall never be less than the base figure.
6. A copy of the form “Calculation of 10% Levy on Property Sales” contained in the Appendix to these Regulations shall be completed in all cases and issued by the General Trustees to the relevant Presbytery and Congregation.

7. Where the levy is applied, the amount raised by it shall be allocated as follows:
  - (a) Where the proceeds require to be credited to the benefit of the Congregation in the Consolidated Fabric Fund, to the Central Fabric Fund;
  - (b) Where the proceeds do not require to be so credited but require to be held as a local fabric fund, at the discretion of the Presbytery either to the Central Fabric Fund or to a fabric project in relation to the buildings of any other Congregation within the Presbytery or a combination of the two.
8. (a) When approving the sale of property, the Presbytery may recommend to the General Trustees that, prior to the operation of the levy, part or all of the net proceeds of sale shall be applied in the first instance towards the cost of a fabric project already approved by it either in principle or in detail.
  - (b) Any Determination passed by the General Trustees under Act VII 1995 may specify, where appropriate, that the net proceeds of sale shall be applied in the first instance towards the cost of a fabric project and any balance remaining thereafter shall, subject to the application of the levy, be credited to the benefit of the Congregation in the Consolidated Fabric Fund.
9. These Regulations shall not apply to the sale of properties of dissolved Congregations where the proceeds are destined for the Central Fabric Fund under Regulations V of 1995.
10. The Regulations will come into immediate effect.

## APPENDIX

### CALCULATION OF 10% LEVY ON PROPERTY SALES

- A. Net sale proceeds before levy (1) £.....  
 Potential maximum levy at 10% (2) £.....

Existing Consolidated Fabric Fund holding

Revenue 50.....	
Capital 55.....	
Capital 56.....	
Total	(3) £

Combined holding of (1) and (3) (4) £.....

- B. If total holding at (4) is under £75,000, then levy is NIL
- C. If total holding at (4) is £75,000 or more, then (4) £.....  
 Minus (2) £.....  
 Balance (5) £.....
- D. If balance at (5) is under £75,000, then reduce levy to leave minimum of £75,000 in the combined holding in the Fund, thus (4) £.....

Minus £75,000  
Reduced levy £.....

E. If balance at (5) is £75,000 or more, then apply maximum levy (2) £.....





## **I. MINISTRIES AND MISSION CONTRIBUTIONS REGULATIONS (REGULATIONS I 2012) (REPLACING REGULATIONS I 2009 AND AMENDED BY REGULATIONS I 2016)**

*Edinburgh 19 May 2012, Session I*

Replaces Regulations I, 2009 for Ministries and Mission Contributions from Congregations with the following:

### **General**

1. All congregations, with the exception of single congregation Local Ecumenical Partnerships, are required to make a Ministries and Mission Contribution in terms of these regulations. For the avoidance of doubt, single congregation Local Ecumenical Partnerships are required to make an equivalent contribution in terms of Regulations I, 2007.
2. Each congregation shall transmit its required contribution in ten or twelve equal monthly payments during the financial year by bank standing order, unless permission is granted annually by Presbytery to allow payments to be made under some other arrangement. Each Presbytery shall advise the Stewardship and Finance Department annually by Extract Minute of any such individual arrangements.
3. It shall be the responsibility of the Financial Board of each congregation to inform the members of the congregation of the required Ministries and Mission Contribution and the ways in which this contribution enables the worship, mission and service of the Church.
4. Ministries and Mission Contributions shall be credited to the Parish Ministries Fund and the Mission and Renewal Fund in proportion to their budgets, as approved by the General Assembly. Any shortfalls in contributions shall be borne by the Parish Ministries Fund and the Mission and Renewal Fund in proportion to their approved budgets.
5. The Stewardship and Finance Department shall annually inform Presbytery Clerks of shortfalls in Ministries and Mission Contributions from congregations within their bounds, and also shortfalls in respect of reimbursement by congregations of ministers' travelling expenses, both for the latest financial year and any accumulated totals for previous years. Each Presbytery shall record all such shortfalls annually in the Minutes of the Presbytery and shall consult with the office-bearers of the congregations concerned.

### **Process of determining Ministries and Mission Contributions**

6. To facilitate the process of calculating the required Ministries and Mission Contribution for each congregation, Financial Boards shall be required to send annually by 31 March to the Stewardship and Finance Department a copy of their Congregational Accounts for the previous financial year. Where the accounts of a congregation have not been received by 30 June the Department will make a reasonable estimate of the income based on income of previous years. Where accounts are subsequently received this estimate will only be amended if materially different and only the current and subsequent years' contributions shall be amended.
7. The required contributions shall be calculated from a graduated scale, which is related to each congregation's Income Base (see paragraphs 8 and 9 below) and provides the total budget for the Parish Ministries Fund and the Mission and Renewal Fund to be met from congregations, as approved by the General Assembly.
8. The Income Base for each congregation shall include:
  - (a) General Fund income;
  - (b) Income specifically to meet the cost of ministries (including, but not exclusively, glebe rents, Consolidated Stipend Fund income and local endowment income);
  - (c) Fabric Fund and Reserve Fund income (including income in Fabric Funds held by the General Trustees);
  - (d) Net property rental income;

- (e) A percentage of contributions from outside agencies for the use of premises, if in excess of a sum to be determined by the Council of Assembly;
- (f) Any other income which is available to meet the normal purposes of a parish church.

For the avoidance of doubt, legacies and the proceeds from the sale of property or investments; special collections for other charities; or income from independent funding sources which is specifically to meet the costs of a specialist worker whose remit is beyond the scope of (f) above shall be excluded from the Income Base.

9. The average of the Income Base figures for the latest three years, calculated as specified above in paragraph 8, shall be the base figure for calculating the required Ministries and Mission Contributions from congregations. Where the income base has been incorrectly assessed due to the Congregational Accounts not being fully compliant with the Regulations for Congregational Finance, only the income of the current year and previous year will be corrected.
10. The Council of Assembly shall appoint a Panel to adjudicate on any appeals from congregations relating to the application of paragraphs 8 and 9 above. (Full details of the appeals process are available from the Secretary to the Council of Assembly or from the Church of Scotland website.)
11. If a congregation's scale contribution will be less than its stipend endowment income, the required contribution shall be increased to equal the amount of the stipend endowment income plus a sum sufficient to ensure that the stipend endowment income shall be applied solely for the Parish Ministries Fund part of the total contribution.
12. The Council of Assembly shall determine each year a percentage for annual maximum increases in proposed contributions for individual congregations issued to Presbyteries. Presbytery shall also have the right to increase a required contribution by more than the maximum percentage permitted where a congregation received a reduced required contribution in the previous year.
13. The total of the approved budgets for the Parish Ministries Fund and the Mission and Renewal Fund to be met from congregations plus 3.75% shall be the total proposed Ministries and Mission Contributions for congregations. The Stewardship and Finance Department shall send to each Presbytery Clerk by 31 August each year a list of proposed Ministries and Mission Contributions for congregations within the bounds of that Presbytery.
14. When the list of proposed contributions referred to in paragraph 13 above is sent to Presbytery Clerks, the Presbytery Clerks will also be advised of the amount of the Presbytery Discretionary Allowance. This Allowance will be calculated as a percentage of the proposed total contributions for the Presbytery concerned. The percentage to be used in this calculation will be determined by the Council of Assembly each year\*.
15. This allowance can be used in any of the following ways in order to support the Presbytery's missional objectives:
  - (a) The Stewardship and Finance Department will hold the balance of the allowance on behalf of the Presbytery concerned who can then request that this amount be paid to the Presbytery. Payments to Presbyteries will only be made to enable staff to be employed within a Presbytery (employed either by the Presbytery or by a congregation within the Presbytery bounds), or to provide assistance to multiple congregations within a Presbytery or for such other purpose that cannot be resourced by any of the methods outlined in 15(b) to 15(e) below. In order to obtain such payment the Presbytery will submit an extract minute detailing that a contract of employment is in place and that the sum requested is not greater than the salary or salaries payable, or, where the purpose is not the employment of staff, the cost of assistance provided. Where Presbytery wishes to use the allowance to increase the hours of a part time Ministries Development Staff post then Presbytery can request that the sum concerned is allocated to the payroll cost of the person concerned.

- (b) To reduce the proposed contributions for individual congregations before they are finalised for the following year, in the light of local knowledge of the current situation in congregations within the Presbytery.
  - (c) To reduce the actual required contributions of individual congregations during the year to which they apply if changes in circumstances arise which the Presbytery decides would justify this course of action, and provided such reductions are communicated by Extract Minute to the Stewardship and Finance Department not later than 30 September each year.
  - (d) To pay off shortfalls from previous years for individual congregations where the Presbytery considers this course of action to be appropriate, and provided such payments are communicated by Extract Minute to the Stewardship and Finance Department not later than 30 September each year.
  - (e) To pay amounts outstanding from previous years in respect of ministers' travel expenses or locum costs.
  - (f) Where the allowance is to be used in one of the ways described in paragraph 15 (a) above then it will be possible for one or more Presbyteries to work in collaboration with each other and for all or part of the allowance available to each Presbytery to be amalgamated in order to provide a greater amount for the purpose concerned.
  - (g) However the allowance is used, the amount available will be reduced by the amount of any Ministries and Mission Contribution shortfalls from the previous year, from those congregations within the Presbytery concerned, which remain unpaid at 31 August in the current year. Such reduction will be limited to 50% of the total current year allowance for the Presbytery in question. Where shortfalls which resulted in a reduction to the Presbytery allowance are subsequently paid then the amount previously withheld shall be credited back to the Presbytery Allowance in the following year (subject to the total amount of shortfall for that particular year being less than 50% of the total allowance).
  - (h) Where the allowance is not used in full in any year then any unused balance can be carried forward for a maximum of one year. When the allowance is used it will first be allocated against amounts brought forward in order to maximise the available allowance.
  - (i) Those Presbyteries who participated in the Pilot Presbytery Staffing Fund will be required to use any sums accumulated within the Fund by 31 December 2018.
16. Presbyteries may increase the proposed contributions for individual congregations where these are substantially below scale or where Presbyteries deem that there is considerable potential for increased giving by completing a 'Giving Agreement' with the trustees of the congregation which will indicate the agreed contributions for the following three financial years and will be recorded in the Minutes of the Presbytery. Any agreed increase in the proposed contributions will be added to the Presbytery Discretionary Allowance.
  17. The percentage stated in paragraph 13 shall be reviewed from time to time by the Council of Assembly.
  18. Presbyteries shall notify their congregations, with the exception of single congregation Local Ecumenical Partnerships within their bounds, of their required Ministries and Mission Contributions for the following financial year not later than 15 November each year. Presbyteries shall also communicate by Extract Minute the required Ministries and Mission Contributions for congregations within their bounds for the following financial year to the Stewardship and Finance Department not later than 15 November each year.
  19. The Stewardship and Finance Department shall then issue to Congregational Treasurers in December each year confirmation of the required Ministries and Mission Contributions for the following financial year.
  20. Where a congregation has a ministerial vacancy, an allowance, within limits determined by the Ministries Council, shall be given towards extra costs incurred for locum provision

during the vacancy. Allowances in respect of ministerial vacancies shall be charged to the Parish Ministries Fund.

\*For the financial years 2016 and 2017 the Council of Assembly has determined that the Presbytery Discretionary Allowance is 5%.

## **I. NOMINATION OF THE MODERATOR OF THE GENERAL ASSEMBLY REGULATIONS (REGS I 2013) (AS AMENDED BY REGS I 2020 AND REGS I 2023)**

*Edinburgh, 18 May 2013, Sess. I*

### **Definitions**

1. In these Regulations, the following definitions apply:
  - (1) 'the Committee' shall mean the Committee to Nominate the Moderator referred to in Regulation 2;
  - (2) "minister" includes 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), an individual who has been ordained to ministry as defined in the Ordained Local Ministry Act (Act IX 2011) and an individual who has been ordained to ministry as defined in the Auxiliary Ministry Act (Act XIII 2003).
  - (3) "deacon" shall mean an individual who has been ordained to ministry as defined in the Deacons Act (Act VIII 2010).
  - (4) 'elder' shall mean a person ordained to that office (whether or not he or she is a member of a Kirk Session) who is neither a minister nor a deacon; and
  - (5) 'the Moderator-Designate' shall mean the person nominated by the Committee to be Moderator of the next General Assembly.

### **Appointment of a Committee to Nominate the Moderator**

2. The Moderator of the General Assembly shall be nominated by a Committee of twelve persons comprising eleven ministers and elders nominated by Presbyteries plus one deacon selected at random by the Clerks of Assembly. The ministers and elders on the Committee shall be selected as follows: each Scottish Presbytery (provided that in the case of the Presbyteries of *Clèir Eilean I: the Church of Scotland in the Highlands & Hebrides* and of Lewis, this means the two Presbyteries working together) shall nominate one minister and one elder to populate the Committee; the Presbyteries of England and of International Charges shall nominate one minister or elder for the Committee in each alternate year, the first nomination being made in 2023 by the Presbytery of England. Nominations shall be sent to the Nomination Committee by 31 December. Upon receipt of all the nominations, the Nomination Committee shall select for appointment one or other of the nominees from each Scottish Presbytery, and shall appoint the nominee from the Presbytery of England or International Charges, with a view to creating overall a Committee which is diverse in office and gender and which is representative of the diversity of the whole Church.
3. The Committee shall be convened by the immediate past-Moderator of the General Assembly whom failing by another former Moderator of the General Assembly. Where the Committee is convened by another former Moderator, the same former Moderator shall not convene the Committee in consecutive years. The Convener of the Committee shall not be a member of the Committee. The clerk to the Committee, who shall not be a member of the Committee, shall be the Principal or Depute Clerk whom failing another suitable person selected by the Committee from outwith its membership.
4. Members of the Committee shall serve for a period of one year only. No-one may be a member of the Committee more than once in any three year period.
5. In the event of the death, resignation or supervening incapacity of persons on the Committee such that the number of persons on the Committee drops below nine, steps shall be taken to bring the number of persons back up to at least nine by seeking further recommendations of suitable appointees from the Nomination Committee.

## **Process at the Committee to Nominate the Moderator**

6. The Committee shall receive recommendations from any member of the Church of Scotland (excluding members of the Committee, who shall not be eligible to make recommendations) of names of ministers, deacons or elders proposed as the next Moderator. The Committee shall take reasonable steps to publicise its willingness to receive recommendations, which recommendations may be submitted to any member of the Committee or to the Office of the General Assembly.
7. The Committee itself shall decide how best to proceed in its task in a fair and efficient manner having due regard to confidentiality at all stages. The quorum for meetings of the Committee shall be nine persons.
8. In considering persons recommended to it, the Committee shall:
  - (1) consider the circumstances of the Church;
  - (2) having sought the advice of the immediate three past Moderators, decide the gifts, experience and other qualities which are required for the post of Moderator in order to benefit the Church and the kingdom of God and examine the candidates in the light of these requirements ;
  - (3) prepare a short-list from among the recommendations which it has received;
  - (4) obtain the consent of each person on the short list to be nominated as Moderator, if chosen, together with a full curriculum vitae and such other information as it considers to be helpful;
  - (5) meet with all persons on the short list; and
  - (6) select its nominee from among those on the short-list or, if this is not possible, prepare another short-list from which to select its nominee.
9. Unless there are exceptional circumstances, the Committee shall inform the Principal Clerk of the name of the Moderator-Designate no later than 31 October each year. Thereafter, the name of the Moderator-Designate shall be made public by the Principal Clerk.
10. In the event of the death, resignation or supervening incapacity of the Moderator-Designate, the Convener of the Committee shall call an extraordinary meeting of the Committee for the purpose of nominating another person to be Moderator. The Committee shall follow Regulations 7 and 8 insofar as they are able to do so in the circumstances and shall nominate another person to be Moderator from among those recommended in terms of Regulation 6.
11. In the event of any difficulty inhibiting process in terms of these Regulations, the Committee shall have a general discretionary power to take any other steps appropriate in the circumstances to fulfil the intention of these Regulations.

## **II OFFICE OF THE MODERATOR OF THE GENERAL ASSEMBLY REGULATIONS (AS AMENDED BY REGS II 2023)**

*Edinburgh, 18 May 2013, Sess. I*

1. The Moderator of the General Assembly shall:

(1) preside over the General Assembly and perform those duties as stated in the Standing Orders;

(2) perform such duties as may be directed by the General Assembly, and represent the Church of Scotland on historic and national occasions, as they may arise; such duties shall include extensive engagement in preaching and in the leading of worship;

(3) visit presbyteries according to the Scheme of Visitation approved by the General Assembly and shall undertake overseas visitation only if circumstances require it, in each case having regard to the needs and resources of the Church and its presbyteries;

(4) where appropriate, act as a spokesperson for the Church. Where a particular matter lies within the remit or area of responsibility of a particular Standing Committee of the General Assembly, that Standing Committee shall determine whether the Moderator is the best person to speak on its behalf on that matter. Only if the Standing Committee decides otherwise, or if the Moderator is unavailable, will it nominate a different spokesperson;

(5) when he or she is asked to express an opinion on any matter of national or public importance or one which lies within the remit or area of responsibility of a particular Standing Committee, be mindful of the views of the General Assembly and of its Standing Committees and so far as possible consult with the Conveners of such Standing Committees.

(6) support the work of the Standing Committees, Presbyteries and other groups within the Church as requested and having regard to his or her other commitments. All Standing Committees shall consider whether the support of the Moderator would assist them in their work and in their dealings with outside bodies. The Moderator shall be briefed by all Standing Committees about their work at the start of and during his or her moderatorial year as appropriate. Where possible, all Standing Committees, Presbyteries and other groups within the Church who wish to involve the Moderator in their work during his or her moderatorial year should make a formal request to the Principal Clerk before 31 January of the moderatorial year;

(7) consult with the Standing Committees and Presbyteries of the Church to identify a particular aspect of the life and witness of the Church in which his or her involvement would be particularly helpful, taking account of his or her skills, interests and experience;

(8) unless exceptional circumstances arise, adhere to the budget approved by the General Assembly for the expenses and other costs of his or her moderatorial year. Those Standing Committees, Presbyteries or other groups who wish to involve the Moderator in their work will bear his or her expenses unless there are exceptional circumstances;

(9) convene the Committee to Nominate the Moderator in the year following his or her moderatorial year;

(10) save in exceptional circumstances, reside in the Moderator's official residence ("the Official Residence") during his or her moderatorial year. The Moderator-Designate shall take up occupation of the Official Residence on the first Saturday in May preceding the commencement of his or her moderatorial year ("the Entry Date"), and as Moderator shall vacate the Official Residence on the date occurring two weeks prior to the Entry Date for the

Moderator-Designate in the succeeding year, at which time alternative accommodation for the remainder of the current Moderator's moderatorial year shall be agreed. During periods of the Moderator's absence, maintenance work may be carried out in the Official Residence;

(11) normally be expected to work in the Official Residence and in an area for the Moderator's use within the Office of the General Assembly;

(12) be offered a debriefing exercise at an appropriate time following his or her moderatorial year, organised by the Principal Clerk.

2. The provisions contained in these Regulations generally apply during the moderatorial year of the Moderator in question, except where expressly stated otherwise.

3. Regulations V(2) 2013 are hereby repealed.



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

*Edinburgh, 22 May 2013, Sess. V*

#### **A. Definitions**

1. In these Regulations:

“Appeal” means an appeal to the Ministries Appeal Panel against the decision of the MAC either as a tribunal of first instance or as an intermediate appeal tribunal.

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

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

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

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

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

“Manse of the Charge” means whichever of the Parish Manse or the Minister’s Own House as shall, in accordance with these Regulations, be designated as the house which is to serve as the Manse of the Charge and in which the Minister of the Charge is to reside.

“Minister” means the minister who at the time of making an application to the Manse Adjudication Committee is currently inducted to a Charge or is considering induction to a Charge.

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

“Parish Manse” means the manse of the Charge provided for the occupation of the Minister and which he or she would normally be expected to occupy in the performance of his or her duties.

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

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

1. Any application by a Minister to designate his or her Own House as the Manse of the Charge in place of the Parish Manse shall be made to the MAC which shall have power to designate the Minister’s Own House as the Manse of the Charge.

2. Where the Parish Manse falls within the scope of Act VII 1995 (i.e. the title to the Parish Manse is held in the name of the General Trustees or it contains a clause placing the trustees in whom it is vested under the control of the General Assembly so far as disposal is concerned), then:

(a) the MAC shall comprise two representatives of the General Trustees, one of whom shall be the Convener, and two representatives of the Faith Nurture Forum;

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

their Deputies) shall attend each meeting of the MAC and shall be entitled to advise on questions of fact or procedure and to put questions to those appearing before the MAC, but they shall not take part in the making of decisions; and

(c) the Chief Executive of the General Trustees (or his or her Depute) shall act as the Clerk to the MAC.

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

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

(b) the Head of the Faith Nurture Forum (or his or her Depute) shall attend each meeting of the MAC and shall be entitled to advise on questions of fact or procedure and to put questions to those appearing before the MAC, but he or she shall not take part in the making of decisions; and

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

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

1. A Minister who wishes his or her Own House to be designated as the Manse of the Charge shall in the first instance consult with the Kirk Session.

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

3. The Presbytery shall meet separately with the Minister and the Kirk Session. The Presbytery shall, after such further investigation as it deems appropriate, and on the basis of the factors set out in Part 1 of the Schedule, and taking account of the reports referred to in section C4 below, make a decision as to whether or not to support the Minister's application to the MAC to have the Minister's Own House designated as the Manse of the Charge.

4. There must be submitted to the Presbytery written reports from an independent Chartered Surveyor or Letting Agent advising on the level of market rent which will require to be paid in respect of the Minister's Own House and on the level of rent which is likely to be received for the Parish Manse, taking into account factoring and other charges which may be incurred in respect of the letting of the Parish Manse. The written reports shall accompany any subsequent application to the MAC.

5. In the event of

(a) the Presbytery not agreeing that the Minister's Own House should be designated as the Manse of the Charge, the Minister, with or without the support of the Kirk Session, shall be entitled to submit an application to the MAC. In this case the application to the MAC shall be characterised as taking the matter to an intermediate appeal tribunal, the Minister bringing the matter forward as an appeal or a dissent-and-complaint against the Presbytery's decision; or

(b) the Presbytery agreeing that the Minister's Own House should be designated as the Manse of the Charge, the Minister, with or without the support of the Kirk Session, shall be entitled to submit an application to the MAC. In this case the application to the MAC shall be characterised as an application to a tribunal of first instance.

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

1. The Minister shall apply to the MAC for a decision as to whether or not the Minister's Own House shall be designated as the Manse of the Charge.
2. In determining whether or not the Minister's Own House shall be designated as the Manse of the Charge, the MAC shall be satisfied all of the factors set out in Part 1 of the Schedule have been appropriately addressed, taking also into consideration the independent reports referred to in section C4 above.
3. The MAC Hearing shall proceed in accordance with the Rules of Procedure set out in Part 2 of the Schedule.
4. Save where (i) the Minister has not been inducted to the Charge and is seeking prior approval to his or her Own House being designated as the Manse of the Charge, or (ii) the Parish Manse is deemed by an independent Chartered Surveyor to be uninhabitable, the MAC shall deal with an application and shall hold a MAC Hearing only where the Minister is, both at the time of the application and continuously up to and throughout the MAC Hearing, residing in the Parish Manse. Save as aforesaid, where a Minister is not residing in the Parish Manse or has moved into his or her Own House in advance of the decision by the MAC, the application shall automatically be refused.

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

1. The Clerk to the MAC shall forthwith notify the Minister, Kirk Session and Presbytery in writing of the decision of the MAC which may be an interim decision pending the production of such further evidence as the MAC shall require.
2. Within 14 days of the date of intimation of the MAC decision, any of the parties attending or represented at the MAC Hearing shall be entitled to submit an Appeal to the Ministries Appeal Panel.
3. An appeal must be made on the basis of one of the following grounds of appeal: (a) that in the course of the MAC Hearing there were irregularities in the process, (b) that the final decision of the MAC Hearing was influenced by incorrect material fact, or (c) that the MAC Hearing acted contrary to the principles of natural justice.
4. In the event of an Appeal, a representative of the MAC shall be entitled to be heard by the Ministries Appeal Panel, along with the Minister, the Kirk Session and the Presbytery.
5. The Ministries Appeal Panel shall then determine the matter in accordance with the terms of the Ministries Appeal Panel Act (Act VI 2007).
6. In the event that the MAC decides that the Minister's Own House shall be designated as the Manse of the Charge (and no Appeal is taken to the Ministries Appeal Panel or an Appeal is unsuccessful), then:
  - (a) that shall be deemed to be approval for the Parish Manse to be let under a Private Residential Tenancy, the terms of which will require to be approved by the General Trustees or, if the title to the Parish Manse is held in the name of local trustees, by the Kirk Session;
  - (b) the Solicitor of the Church shall act on behalf of the Kirk Session in the preparation of a Lease Agreement between the Minister and the Kirk Session in respect of the Minister's Own House; and
  - (c) the Minister's Own House shall be inspected on behalf of the Presbytery every five years in terms of the Act anent Care of Ecclesiastical Properties 2007.
7. In the event that the MAC decides that the Parish Manse shall be designated as the Manse of the Charge (and no Appeal is taken to the Ministries Appeal Panel or an Appeal is

unsuccessful), then the Minister must reside in the Parish Manse which shall continue to be the Manse of the Charge.

8. At any time, the Minister may only cease to occupy the Parish Manse once there exists a final decision of the MAC (which is not subject to an Appeal or which has been the subject of an unsuccessful Appeal) that the Minister's Own House shall be designated as the Manse of the Charge.

#### **F. Miscellaneous**

1. These Regulations shall not apply to the situation where a husband and wife are both ordained ministers of the Church of Scotland, are inducted to different charges and are living together in the Parish Manse of one of the charges.

### **SCHEDULE**

#### **PART 1**

#### **Factors for determining whether the Minister's Own House shall be designated as the Manse of the Charge**

- (a) That the Minister's Own House is suitable to serve as the Manse of the Charge taking into account:
  - (i) The location which must be within a reasonable distance of the Charge and the sphere of ministry;
  - (ii) The size and internal layout of accommodation;
  - (iii) The condition and state of repair; and
  - (iv) The potential availability of office and meeting facilities at a church or hall within the Charge.
- (b) That there will not be an adverse impact on the financial position of the congregation of the Charge as a result of the designation of the Minister's Own House as the Manse of the Charge taking into account the following factors:
  - (i) The requirement to pay a full market rent for the Minister's Own House;
  - (ii) The requirement to pay Council Tax, Water Rates, etc for the Minister's Own House;
  - (iii) The requirement to pay an agreed share of the repair and maintenance costs of the Minister's Own House; and
  - (iv) The likelihood that there may be periods when the Parish Manse is un-let and no rent is being received to offset the payment of the full market rent for the Minister's Own House to the Minister.
- (c) That there are exceptional circumstances justifying the Minister's request that his or her Own House should be designated as the Manse of the Charge. In coming to its view the MAC shall:
  - (i) Consider such supporting evidence as might reasonably be made available, including medical or social work reports and photographs; and
  - (ii) Recognise that the following situations may constitute exceptional circumstances:
    - Where a Minister is within less than 12 months of retirement; or
    - Where the Parish Manse is not suitable for occupation by a person with a disability or particular health issue, such person being the Minister or an immediate member of his or her family, and cannot be made suitable for such occupation.

## **PART 2**

### **MAC Hearing Procedures**

1. The MAC shall be deemed to be acting in a judicial capacity so that the rules of natural justice will apply.
2. The Minister, representatives of the Kirk Session and representatives of the Presbytery shall be given the opportunity to make verbal submissions and to speak to any written evidence lodged in support of the application.
3. Professional advisers shall not be permitted to represent the Minister at a MAC Hearing.
4. The Minister, representatives of the Kirk Session and representatives of the Presbytery and any other witness permitted by the MAC shall be heard separately and after giving evidence shall be asked to withdraw from the MAC Hearing but may be recalled in the event of the MAC seeking further information.
5. In coming to a decision as to whether to designate the Minister's Own House as the Manse of the Charge, the MAC shall consider the factors set out in Part 1 of the Schedule, and the independent reports referred to in section C4 above.
6. The MAC Hearing may take place by audio and/or video conference call or other appropriate medium.



## **I. CAR LOAN FUND REGULATIONS (REPLACING REGULATIONS IV, 1965) (REGS I 2014)**

*Edinburgh, 19 May 2014, Session III*

1. The Ministries Council shall be the Trustees and Administrators of the Ministries Car Loan Fund (hereinafter referred to as "the Fund").
2. The Council shall have the power to increase the capital of the Fund, originally £21,000, out of such funds as may be available for the purpose.
3. The object of the Fund shall be the granting of loans to ministers and parish staff of charges of the Church of Scotland in Scotland or England (hereinafter referred to as "the borrower") for the sole purpose of assisting the borrower to purchase a motor car.
4. The Council shall decide the amount of each loan, but the maximum loan shall be £5,000 or such other sum as may be determined by the Council from time to time.
5. If the borrower is in receipt of a Stipend/Salary in excess of the **Ministers 5 Point Stipend Scale Year 2** at the time the loan is paid out, then the borrower will incur an interest charge at the current rate of 6% or at a rate to be determined by the Council from time to time.
6. Loans shall be repaid over three years in monthly instalments, commencing on the last day of the month following payment of the loan. Loan repayments shall be taken by deductions from stipend/salary paid through the Centralised Payment of Stipend System.
7. In the event of the borrower ceasing to hold a pastoral charge or appointment, as the case may be, of the Church of Scotland in Scotland or England, he or she shall immediately repay any balance of the loan, and interest if applicable, which is outstanding. Likewise, in the event of the death of the borrower, the whole balance of the loan, and interest if applicable, shall be immediately repayable and shall form a debt against the estate. In either of these events, if any sums should be due to the borrower, or the estate as the case may be, from funds or other monies held by the Council or the General Treasurer of the Church of Scotland, the Council shall be entitled to apply such sums so far as necessary in reduction of the borrower's, or the estate's, indebtedness to the Fund.
8. The car for which a loan has been made can only be traded-in or sold or otherwise disposed of after the loan has been repaid in full, unless otherwise agreed in writing with the Council.
9. The borrower shall forthwith insure the car, and while any part of the loan remains unpaid shall keep the car insured under a fully comprehensive policy.
10. Application for a loan from the Fund shall be made in the form of the Application form attached to these Regulations. On receipt of the loan monies, the borrower shall immediately sign and return to the Ministries Council the Form of Acknowledgement attached to these Regulations.
11. Apart from the Council's interest in a car as a result of a loan, the car is the property of the borrower who is responsible for Road Fund Licence, motor insurance and all running costs, maintenance and repairs.
12. By accepting a loan from the Ministries Car Loan Fund, the borrower shall be held to have accepted it under the foregoing Regulations and shall be obliged to comply with the foregoing Regulations and to fulfil all obligations imposed on him or her thereunder.
13. No alterations shall be made in the foregoing Regulations except by authority of the General Assembly, and that only after any proposed alterations have been considered and reported on by the Council.

**Application form attached.**

**APPLICATION**

To Miss Elizabeth Dailly,  
Ministries Council Finance,  
121 George Street,  
Edinburgh,  
EH2 4YN

MADAM, - I wish to make application for a loan of £ \_\_\_\_\_ on the terms above stated,  
and I have filled up and signed the annexed schedule of particulars.

I am,

Yours faithfully,

(Signature).....

(Full postal address).....

.....  
(Date) .....

**Schedule of Particulars**

1. Full name of applicant.....
2. Present charge or Post and  
Presbytery.....
3. Date of applicant's birth.....
4. Date of applicant's ordination.....  
and of his/her induction, if on  
separate date.....
5. Particulars of car to be purchased:-  
Make ..... Model.....  
C.C.'s ..... Date first registered.....  
Mileage .....

**CAR LOANS WILL ONLY BE PAID OUT WHEN AN INVOICE OR OTHER DOCUMENTARY  
EVIDENCE HAS BEEN SENT TO THE DEPARTMENT**



**FORM OF ACKNOWLEDGEMENT**

RECEIVED from the TRUSTEES of the MINISTRIES CAR LOAN FUND in connection with the Church of Scotland the sum of .....in loan, and subject to the Regulations of said Fund, and any alteration thereof: and I authorise the Council of Ministry to make deductions in terms of Regulation 6.

(Signature) .....

(Date) .....

(Place of Signing) .....



# **I REGULATIONS FOR REMUNERATION AND REIMBURSEMENT OF PARISH MINISTERS (REGULATIONS I 2015) (AMENDED BY REGS VI 2016 AND REGS V 2023)**

*Edinburgh, 20 May 2015, Session V*

## **1. Remuneration**

Ministers shall be entitled to a stipend to release them to discharge the duties of their calling to Parish Ministry. The stipend rate shall be that set annually by the Assembly Trustees having regard to the recommendation of the Faith Action Programme Leadership Team, a National Stipend Scale being published annually in the Report of the Faith Action Programme Leadership Team to the General Assembly.

Ministers shall have the right to be provided with a manse and have a corresponding duty to live in it and discharge the duties of their office from it, whether they hold office on a full-time or part-time basis.

Beyond the stipend paid to them through the Ministries payroll, Ministers may not receive any other form of remuneration from their congregation relating to the discharge of their ministerial duties.

Part-time Parish Ministers shall be entitled to a stipend calculated pro rata according to the percentage of post in the Presbytery Plan (e.g. 50%), using the rates published annually on the National Stipend Scale.

## **2. Reimbursement of Legitimate Expenses**

Every congregation shall pay for legitimate expenses reasonably incurred by ministers in the course of discharging their duties. These may be paid directly by the congregation or may be reclaimed by the minister from the congregation. The following list sets out the categories of legitimate expense:

1. (a) Communion Expenses incurred.
- (b) Any fee or expenses due to a visiting minister at Communion Seasons if such payments are authorised in advance by the Kirk Session.
2. Pulpit Supply on seven Sundays in any calendar year.
3. The costs of providing Pastoral Cover (should such payment be necessary) for six weeks in any calendar year, or in the case of part-time Parish Ministers, pro rata according to the percentage of post in the Presbytery Plan (e.g. 50%).
4. Pulpit supply for one additional Sunday and the costs of providing Pastoral Cover (should such payment be necessary) for an additional week when the minister is a Commissioner at the General Assembly.
5. Telephone line rental and calls, including where agreed in advance that for mobile services, incurred in the performance of ministerial duties.
6. The cost of internet access at a level required for the performance of ministerial duties.
7. Computer hardware, software and consumables necessary for the performance of ministerial duties.
8. Stationery and postage stamps for use in relation to work.

9. Travelling expenses incurred in the fulfilment of ministerial duties, at the rates agreed from time to time by the Faith Action Programme Leadership Team. Where an essential car user allowance is paid, this shall be at the same rate for both full-time and part-time postholders.

In relation to travelling expenses, ministers are required to keep an up-to-date Log Book listing actual mileage covered in the discharge of ministerial duties, against which expenses are reclaimed. Presbyteries are required, by instruction of the General Assembly, to carry out an annual inspection of all ministers' Log Books.

Reference is made in Part 2 of the Schedule to these Regulations.

### **3. Discretionary Expenses**

In addition to the categories of reimbursable expense listed above and the essential ongoing care and maintenance of the manse, Financial Boards may decide from time to time to cover some fabric related costs relating to the running of the manse. Such costs are discretionary, but it would be good practice to assist with costs which maintain the Church's property in good order. Any expenses to be claimed by the minister *must* be agreed by or on behalf of the Financial Board in advance and the claim must be accompanied by appropriate receipts. Examples of possible costs are: gardening materials and help where the garden is larger than the domestic norm; cleaning of public areas, materials and help. It should be noted however that no reimbursement can be made to the minister with respect to the cost of heating and lighting the manse.

In order effectively to discharge their ministerial duties, ministers may also, from time to time, purchase clerical garments or theological books, subscribe to journals, arrange for some form of Spiritual Direction or Professional / Pastoral Supervision, attend courses and training events. Congregations may choose to contribute to some or all of the cost of these to a reasonable extent.

*Regulations VII, 2008 are hereby repealed.*

## **Schedule**

### **Part 1 – Background to Regulations**

These Regulations cover the remuneration of Parish Ministers and their reimbursement for expenses legitimately incurred in the course of their duties. It is a general principle, where there is any doubt about the appropriateness of making a potential claim for reimbursement, that the minister will clarify this *in advance* of incurring the expense. The Faith Action Programme Leadership Team is able to point Parish Ministers or Treasurers to more specific advice on issues relating to these Regulations should this prove helpful.

The context of these Regulations is one wherein the Church seeks to strike a balance on the one hand between recognising and respecting the historic right of ministers to structure ministry, including the management of working time and time off, according to their understanding of their calling and on the other hand ensuring good practice, probity and a measure of equality across the practice of ministry in the Church.

### **Part 2 – Additional Clarity**

For the avoidance of doubt, the following points of clarification are appended to these Regulations to enable ease of implementation:

- Parish Ministers are *Office Holders* rather than employees and these Regulations cover the issues which arise out of that particular status. Part-time working does not alter the status of the Parish Minister as Office Holder.
- Regulations VII, 2007 (Manses) and III, 2013 (Manse Adjudication Committee) provide further clarity about the responsibilities of upkeep of the Manse and the duty of living in the Manse of the charge.
- Her Majesty's Revenue and Custom rules for exemption from tax of living accommodation apply equally to part-time ministry as to full-time where:
  - The living accommodation provided is necessary for the proper performance of the duties of the post;
  - It is the type of post where it is customary for living accommodation to be provided.
- In relation to reimbursement, ministers should distinguish between items expended in the course of daily duty (eg. travel costs; telephone usage; stamps; etc.), which are reclaimed from the congregation and items which become the property of the minister (eg. books; vestments; etc.). In some circumstances, a proportion of the cost of these latter expenses *may* be reclaimable against the minister's personal tax allowance (receipts for which should be retained by the minister).
- Congregations may choose to contribute towards the costs of some other expenses as exemplified in section 3 (above). The Faith Action Programme Leadership Team also provides study opportunities for ministers through its Study Leave Scheme and a planned programme of Continuing Ministerial Development, both of which may also contribute towards some of the expenses noted above.
- In relation to Parish Ministers offering pastoral cover or pulpit supply in support of colleagues during absence (on leave or through illness), this is part of fulfilment of the role of Parish Minister and no pulpit supply fee or pastoral cover payment is payable. Similarly, in the conduct of funerals, no Parish Minister may charge a fee to conduct a funeral or related visit either in his / her own Parish or that of another minister.
- Parish Ministers are reminded of the need at all times to behave in a manner worthy of their calling, to which end the General Assembly has approved a Code of Professional Conduct which is published in the Ministers' Handbook on the Church of Scotland website.
- Ministers are responsible for probity in relation to their own tax affairs.
- Beyond those items listed in these Regulations, no other expenses or remuneration may be paid by congregations or claimed by ministers.



## **II CONGREGATIONAL FINANCE REGULATIONS (REGULATIONS II 2016) (REPLACING REGULATIONS II 2012)**

*Edinburgh 21 May 2016, Session I*

Replace Regulations II 2012 for Congregational Finance with the following:

### **1. ACCOUNTING, INDEPENDENT EXAMINATION AND AUDITING REGULATIONS FOR CONGREGATIONAL ACCOUNTS**

#### **(A) FORMAT OF CONGREGATIONAL ACCOUNTS**

The annual accounts of the congregation (“the Accounts”) will be prepared in one of two formats:

- (1) In accordance with the methods and principles set out in the Accounting and Reporting by Charities: Statement of Recommended Practice applicable to charities preparing their accounts in accordance with the Financial Reporting Standard applicable in the UK and Republic of Ireland published on 16 July 2014 (the SORP) or
- (2) In the form of receipts and payments accounts including associated notes thereon, in accordance with the Charities Accounts (Scotland) Regulations 2006 as amended by the Charities Accounts (Scotland) Amendment Regulations 2010.

The second format may only be prepared by congregations with gross income of less than £250,000 in any financial year.

#### **(B) CONTENT OF CONGREGATIONAL ACCOUNTS**

- (1) Where the Accounts have been prepared in accordance with the methods and principles set out in the SORP then in addition to the information required by the SORP the Accounts or notes thereon must also contain the following:
  - (a) An analysis of donations and legacies;
  - (b) An analysis of income from charitable activities;
  - (c) An analysis of income from other trading activities;
  - (d) A note of the stipend endowment income and glebe rent applied on behalf of the congregation;
  - (e) Details of the receipt and disbursement of Special Collections and Fund Raising for Other Charities (if any). These details shall be shown separately from the Statement of Financial Activities;
  - (f) A Note or Notes disclosing the Accounting Policies adopted in preparing the Accounts (see annexed Schedule);
  - (g) Details of the current stipend scale applicable to Parish Ministers
  - (h) A Memorandum Note showing any additional information necessary or appropriate to an understanding of the financial affairs of the congregation, including details of any Funds held by the Church of Scotland General Trustees for or in connection with the congregation.
- (2) Where the Accounts have been prepared in the form of Receipts and Payments Accounts then in addition to the information required by Schedules 2 and 3 to Regulation 9 of The Charities Accounts (Scotland) Regulations 2006 (as amended) the accounts should also contain the following:
  - (a) A Receipts and Payments Account showing amounts actually lodged in and withdrawn from the congregation’s bank account during the year, but to include money received by the year-end but not banked and cheques written by the year-end but not cleared through the bank account and to exclude monies received by

the previous year-end but not banked and cheques written by the previous year-end but not cleared through the bank account. The Receipts and Payments Account should show under separate headings:

**Ordinary General Receipts** identifying receipts from Offerings and from Legacies separately from Other Receipts. All receipts should be further analysed as appropriate.

**Ordinary General Payments** identifying the payment towards the Ministries and Mission Contribution, Other Staffing Costs, and Buildings Costs separately from Other Costs. All payments should be further analysed as appropriate;

- (b) Details of the receipt and disbursement of Special Collections and Fund Raising for Other Charities (if any). These details shall be shown separately from Receipts and Payments Account;
- (c) A note of the stipend endowment income and glebe rent applied on behalf of the congregation;
- (d) Details of all Fabric, Reserve, Special and Trust Funds, including funds of congregational organisations, and Transfers between other Congregational Funds (if any);
- (e) A Statement of Balances analysed by fund at the year-end showing amounts held in bank accounts, investments held, other assets held, and amounts due to and due by the congregation at the year-end;
- (f) Details of the current stipend scale applicable to Parish Ministers;
- (g) A Memorandum Note showing any additional information necessary or appropriate to an understanding of the financial affairs of the congregation, including details of any Funds held by the Church of Scotland General Trustees for or in connection with the congregation.

## **(C) AUDIT/INDEPENDENT EXAMINATION OF CONGREGATIONAL ACCOUNTS**

- (1) If the gross income of the congregation exceeds £500,000 in the current financial year an audit shall be conducted. Otherwise, an independent examination shall be conducted.
- (2) An audit shall be conducted by an auditor who is eligible to act as an auditor in terms of the relevant legislation for Companies (a) or by the Auditor General for Scotland.
- (3) An independent examination shall be conducted by a person who is reasonably believed by the Financial Board of the congregation to have the requisite ability and practical experience to carry out a competent examination of the accounts.

Where the Accounts have been prepared in accordance with the methods and principles set out in the SORP the independent examiner must also be:

- (a) a member of one of the following bodies:
  - the Institute of Chartered Accountants of Scotland
  - the Institute of Chartered Accountants in England and Wales
  - the Institute of Chartered Accountants in Ireland
  - the Association of Chartered Certified Accountants
  - the Association of Authorised Public Accountants
  - the Association of Accounting Technicians
  - the Association of International Accountants
  - the Chartered Institute of Management Accountants
  - the Institute of Chartered Secretaries and Administrators
  - the Chartered Institute of Public Finance and Accountancy

or



- (b) a full member of the Association of Charity Independent Examiners  
or
- (c) the Auditor General for Scotland.

An auditor or independent examiner, or a connected person of an auditor or independent examiner, must not be the Minister or a member of the Kirk Session or the Financial Board.

- (4) The Report of the auditor or independent examiner shall be in the form set out in Regulation 10(4) or Regulation 11(3) of the Charities Accounts (Scotland) Regulations 2006.

#### **(D) APPROVAL AND ATTESTING OF CONGREGATIONAL ACCOUNTS**

- (1) After the Accounts have been prepared, they shall be submitted to the independent examiner or auditor and provided the independent examiner or auditor is content then they shall be submitted for the approval of the Trustees.
- (2) After the Accounts have been approved by the Trustees the appropriate report will be signed by the independent examiner or auditor. They shall then be submitted to the Presbytery by the 31st day of March following the financial year-end date, for examination and attestation by Presbytery to the effect that the Accounts are in accordance with the Regulations for Congregational Finance.
- (3) The Accounts must also be received by the congregation at the Stated Annual Meeting, or equivalent Congregational Meeting in the case of congregations not having the Model Deed of Constitution, such Meeting to be held not later than the 30th day of June following the financial year-end date.
- (4) Every Presbytery shall appoint an Accounts Inspection Committee having the task of examining Congregational Accounts annually and reporting thereon to Presbytery. The Committee shall include in its membership, by co-option if necessary, at least one person being a member of one of those recognised supervisory bodies listed at (C)(3)(a) above.
- (5) In cases where the Accounts are not in accordance with the Regulations for Congregational Finance, the Presbytery shall offer such advice and assistance as is necessary to ensure that the Accounts are amended in order to comply with the Regulations for Congregational Finance.
- (6) Every Presbytery shall submit annually to the Stewardship and Finance Department (by a date and in a form determined by the Council of Assembly) a report on its diligence in carrying out the provisions of those instructions. The Council of Assembly shall report on these returns to the General Assembly.

#### **Schedule to Accounting, Independent Examination and Auditing Regulations for Congregational Accounts with reference to paragraph (B)1(f) – Accounting Policies**

All Congregational Accounts prepared in accordance with the methods and principles set out in the SORP shall contain a Note or Notes disclosing the Accounting Policies adopted in preparing the Accounts. The Note or Notes shall *inter alia*:

- (a) state that the Accounts have been prepared on an *accruals basis* (income and expenditure).  
[An *accruals basis* takes account of outstanding year-end income/debtors and expenditure/creditors.]
- (b) disclose the basis of accounting for heritable properties.

[Heritable properties should be recorded in the Accounts where title is locally held and where a cost or reliable valuation is readily available, and when not included a statement of Congregational properties (eg Church, Hall, Manse, etc.) should be provided.]

- (c) disclose the basis of accounting for fabric expenditure.  
[eg “normal repairs and maintenance are charged to the General Fund; extraordinary repairs and improvements are met from the Fabric Fund and/or by special fund raising efforts”.]

## **2. REGULATIONS FOR CONGREGATIONAL BUDGETS**

- (a) It shall be the duty of the Financial Board of every congregation to create and maintain among the members of the congregation a commitment to the provision, by regular giving, of sufficient income to meet the costs of the whole financial affairs of the congregation and to take all necessary and appropriate measures to that end.
- (b) Every Financial Board shall prepare and approve an annual Budget of estimated General Fund Income and Expenditure. Although the Budget may be attached to the annual Accounts of the congregation, it shall not be within the scope of the audit or independent examination of the Accounts, nor should it form part of the Accounts submitted to the Office at the Scottish Charity Regulator (OSCR).
- (c) Every Financial Board shall provide its members annually with a copy of the Budget. In addition, copies of the Budget shall be made available, for information, at the Stated Annual Meeting or equivalent Congregational Meeting at which the annual Accounts of the congregation are received.

## **3. BORROWING OF FUNDS**

No congregation is permitted to borrow funds, whether by way of overdraft or otherwise and whether from a bank or elsewhere without first obtaining the agreement of Presbytery.

### **III PRESBYTERY FINANCE REGULATIONS (REGULATIONS III 2016) (REPLACING REGULATIONS III 2012)**

*Edinburgh 21 May 2016, Session i*

Replace Regulations III 2012 for Presbytery Finance with the following:

#### **(A) FORMAT OF PRESBYTERY ACCOUNTS**

The annual accounts of the Presbytery (“the Accounts”) will be prepared in one of two formats:

- (1) In accordance with the methods and principles set out in the Accounting and Reporting by Charities: Statement of Recommended Practice applicable to charities preparing their accounts in accordance with the Financial Reporting Standard applicable in the UK and Republic of Ireland published on 16 July 2014 (the SORP) or
- (2) In the form of receipts and payments accounts including associated notes thereon, in accordance with the Charities Accounts (Scotland) Regulations 2006 as amended by the Charities Accounts (Scotland) Regulations 2010.

The second format may only be prepared by Presbyteries with gross income of less than £250,000 in any financial year.

Where the Presbytery is not a registered charity, the format of the accounts should be amended to remove references which are specific to charities.

#### **(B) CONTENT OF PRESBYTERY ACCOUNTS**

- (1) Where the Accounts have been prepared in accordance with the methods and principles set out in the SORP then in addition to the information required by the SORP the Accounts or notes thereon must also contain the following:
  - (a) An analysis of donations and legacies;
  - (b) An analysis of income from charitable activities;
  - (c) An analysis of income from other trading activities;
  - (d) Details of the receipt and disbursement of Special Collections and Fund Raising for Other Charities (if any). These details shall be shown separately from the Statement of Financial Activities;
  - (e) A Note or Notes disclosing the Accounting Policies adopted in preparing the Accounts (see annexed Schedule);
  - (f) A Memorandum Note showing any additional information necessary or appropriate to an understanding of the financial affairs of the Presbytery, including details of any Funds held by the Church of Scotland General Trustees for or in connection with the Presbytery.
- (2) Where the Accounts have been prepared in the form of Receipts and Payments Accounts then in addition to the information required by Schedules 2 and 3 to Regulation 9 of The Charities Accounts (Scotland) Regulations 2006 (as amended) the accounts should also contain the following:
  - (a) A Receipts and Payments Account showing amounts actually lodged in and withdrawn from the Presbytery’s bank account during the year, but to include money received by the year-end but not banked and cheques written by the year-end but not cleared through the bank account and to exclude money received by the previous year-end but not banked and cheques written by the previous year-end but not cleared through the bank account. The Receipts and Payments Account should show under separate headings:
    - Ordinary General Receipts
    - Ordinary General Payments;

- (b) Details of the receipt and disbursement of Special Collections and Fund Raising for Other Charities (if any). These details shall be shown separately from the Receipts and Payments Account;
- (c) Details of all Reserve, Special and Trust Funds and Transfers between other Presbytery Funds (if any);
- (d) A Statement of Balances analysed by fund at the year-end showing amounts held in bank accounts, investments held, other assets held, and amounts due to and due by the Presbytery at the year-end;
- (e) A Memorandum Note showing any additional information necessary or appropriate to an understanding of the financial affairs of the Presbytery, including details of any Funds held by the Church of Scotland General Trustees for or in connection with the Presbytery.

### **(C) AUDIT/INDEPENDENT EXAMINATION OF PRESBYTERY ACCOUNTS**

- (1) If the gross income of the Presbytery exceeds £500,000 in the current financial year an audit shall be conducted. Otherwise, an independent examination shall be conducted.
- (2) An audit shall be conducted by an auditor who is eligible to act as an auditor in terms of the relevant legislation for Companies (a) or by the Auditor General for Scotland.
- (3) An independent examination shall be conducted by a person who is reasonably believed by the Presbytery, or the appropriate Presbytery Committee, to have the requisite ability and practical experience to carry out a competent examination of the accounts.

Where the Accounts have been prepared in accordance with the methods and principles set out in the SORP the independent examiner must also be:

- (a) a member of one of the following bodies:
  - the Institute of Chartered Accountants of Scotland
  - the Institute of Chartered Accountants in England and Wales
  - the Institute of Chartered Accountants in Ireland
  - the Association of Chartered Certified Accountants
  - the Association of Authorised Public Accountants
  - the Association of Accounting Technicians
  - the Association of International Accountants
  - the Chartered Institute of Management Accountants
  - the Institute of Chartered Secretaries and Administrators
  - the Chartered Institute of Public Finance and Accountancy

or

- (b) a full member of the Association of Charity Independent Examiners

or

- (c) the Auditor General for Scotland.

An auditor or independent examiner, or a connected person of an auditor or independent examiner, must not be a member of Presbytery.

- (4) The Report of the auditor or independent examiner shall be in the form set out in Regulation 10(4) or Regulation 11(3) of the Charities Accounts (Scotland) Regulations 2006.

### **(D) APPROVAL AND ATTESTING OF PRESBYTERY ACCOUNTS**

- (1) After the Accounts have been prepared, they shall be submitted to the independent examiner or auditor and provided the independent examiner or auditor is content then they shall be submitted for the approval of the Presbytery.

- (2) After the Accounts have been approved by the Presbytery the appropriate report will be signed by the independent examiner or auditor.
- (3) Immediately after the appropriate report has been signed by the independent examiner or auditor, they shall be submitted for attestation to the Stewardship and Finance Department, along with an Extract Minute, certifying the Presbytery's approval of the Accounts.
- (4) The Council of Assembly shall report to the General Assembly on its diligence in attesting Presbytery Accounts.

**Schedule to Accounting, Independent Examination and Auditing Regulations for  
Presbytery Accounts with reference to paragraph (B)1(e) – Accounting Policies**

All Presbytery Accounts prepared in accordance with the methods and principles set out in the SORP shall contain a Note or Notes disclosing the Accounting Policies adopted in preparing the Accounts. The Note or Notes shall *inter alia*:

- (a) state that the Accounts have been prepared on an *accruals basis* (income and expenditure).  
[An *accruals basis* takes account of outstanding year-end income/debtors and expenditure/creditors.]
- (b) disclose the basis of accounting for heritable properties.  
[Heritable properties should be recorded in the Accounts where title is locally held and where a cost or reliable valuation of cost is readily available, and when not included a statement of Presbytery properties should be provided.]
- (c) disclose the basis of accounting for fabric expenditure.  
[eg "normal repairs and maintenance are charged to the General Fund; extraordinary repairs and improvements are met from a Fabric Fund and/or by special fund raising efforts".]



## **V REGULATIONS FOR CONTRIBUTIONS FROM CONGREGATIONS IN THE PRESBYTERY OF INTERNATIONAL CHARGES (REGS V 2016) (AS AMENDED BY REGS III 2022)**

*Edinburgh 21 May 2016, Session I*

### **General**

1. All congregations within the Presbytery of International Charges (“the Presbytery”), are required to make a Contribution under the Congregational Contributions ‘Giving to Grow’ Regulations (Regs I 2022) (“Contribution”) to the total budget of the Church to be met by congregations, as determined by the General Assembly, in terms of these Regulations.
2. Each congregation shall transmit its required Contribution to the Presbytery annually in their local currency, unless permission is granted annually by Presbytery to allow payments to be made under some other arrangement, and Presbytery shall pay the total Contribution to the Stewardship and Finance Department in ten or twelve equal monthly instalments during the financial year by bank standing order.
3. It shall be the responsibility of the Financial Board of each congregation to inform the members of the congregation of the required Contribution and the ways in which this Contribution enables the worship, mission and service of the Church.
4. The Stewardship and Finance Department shall annually inform the Presbytery Clerk of shortfalls in Contributions from congregations within the bounds, both for the latest financial year and any accumulated totals for previous years. The Presbytery shall record all such shortfalls annually in the Minutes of the Presbytery and shall consult with the office-bearers of the congregations concerned.

### **Provision of Accounts**

5. To facilitate the process of calculating the required Contribution for each congregation, Financial Boards, as defined in the International Presbytery Act 2016, shall be required to send annually by 30 June to the Stewardship and Finance Department a copy of their Congregational Accounts for the previous financial year.
6. Where the accounts of a congregation have not been received by 30 June the Department will make a reasonable estimate of the income based on income of previous years. Where accounts are subsequently received this estimate will only be amended if materially different and only the current and subsequent years’ Contributions shall be amended.

### **Calculation of Contributions**

7. The required Contribution for each congregation shall be calculated by the Stewardship and Finance Department as 10% of the congregation’s Income Base.
8. The Income Base for each congregation shall include:
  - (a) General Fund income;
  - (b) Income specifically to meet the cost of ministries (including trust income with the exception of grants from the Salvesen Trust);
  - (c) Fabric Fund and Reserve Fund income;
  - (d) Net property rental income;
  - (e) Half of all gross income in excess of £10,000 received from outside agencies for the use of premises;
  - (f) Net income raised through giving online or through other digital means;
  - (g) Any other income which is available to meet the normal purposes of a congregation.

For the avoidance of doubt, legacies and the proceeds from the sale of property or investments, special collections for other charities and for specific major fabric projects and all grant income, including grants from the Salvesen Trust, shall be excluded from the Income Base.

9. The Income Base figure for the latest financial year, calculated as specified above in paragraph 8, shall be the base figure for calculating the required Contributions from congregations. Where the Income Base has been incorrectly assessed due to the Congregational Accounts not being fully compliant with relevant legislation and accounting practice, only the income of the current year and previous year will be corrected.

#### **Adjustment for Ministers' Costs**

10. The Contribution so calculated shall then be adjusted to take into account the local payment of ministers' employment costs. The percentage used to calculate this adjustment will be reviewed each year, dependent on the budget set by the General Assembly.
11. Where the local cost of providing a minister is substantially more than the equivalent cost in the United Kingdom then an agreement will be reached with the Assembly Trustees to reduce the assessed Contribution proportionately.

#### **Local Ecumenical Partnerships**

12. Where a congregation is part of a Local Ecumenical Partnership then an agreement will be reached with the other participating denomination(s) regarding how the assessed Contribution is allocated between the parties.

#### **Membership of Local Denomination/National Church**

13. Where a congregation is also a member of a local denomination or national church organization, a deduction of any membership contribution paid to the local denomination or national church organization may be made from the assessed Contribution up to a maximum of 50% of the assessed Contribution.

#### **Appeals**

14. The Governance Group of the Assembly Trustees shall appoint a Panel to adjudicate on any appeals from Congregations relating to the application of paragraph 8 above. Appeals on any other grounds shall not be permitted. (Full details of the appeals process are available from the Church of Scotland website.)

#### **Presbytery Allocation**

15. The Stewardship and Finance Department shall send to the Presbytery Clerk by 31 August each year a list of proposed Contributions calculated in accordance with these Regulations for congregations within the bounds of the Presbytery.

#### **Notification of Contributions to Congregations**

16. The Presbytery shall notify the congregations of their required Contributions for the following financial year not later than 15 November each year. The Presbytery shall also communicate by Extract Minute the required Contributions for congregations within their bounds for the following financial year to the Stewardship and Finance Department not later than 15 November each year.
17. The Stewardship and Finance Department shall then issue to Congregational Treasurers or their equivalent in December each year confirmation of the required Contributions for the following financial year.



### **Transition Funding**

18. The sum total of increases in Contributions for Congregations within a Presbytery between the last year of the previous Contribution system (2022) and that current year's requirement, will be made available as Transition Funding to Presbytery. This will be communicated when the list of proposed Contributions is issued to Presbytery. This funding will be available annually, for the first three years (i.e. in the years 2023 – 2025) of this Giving to Grow contribution system.
19. This transition funding may be used by the Presbytery to reduce the proposed Contributions for individual Congregations before these are finalised for the following year. This will be charged to the Church of Scotland General Fund.



## **VII. MILITARY RESERVE CHAPLAINS REGULATIONS (REGULATIONS VII 2016) (REPLACING REGULATIONS VI 2000)**

*Edinburgh, 26 May 2016, Session VI*

1. Where a Parish Minister (“the Minister”) is an Army Reserve Chaplain, RAF Reserve Chaplain or a Royal Naval Reserve Chaplain on part time reserve service, any proposed change of such status to military service on voluntary mobilisation under section 24 of the Reserve Forces Act 1996 shall not be effective unless and until all of the following have been granted:-
  - (a) firstly, the consent of the Minister’s Kirk Session;
  - (b) secondly, the consent of the Presbytery of the bounds; and
  - (c) thirdly, the consent of the Committee on Chaplains to HM Forces or any General Assembly Committee which may succeed to its duties or functions (“the Committee”).
2. Before deciding whether to give or withhold such consent the Committee shall interview the Minister. The consent of the Committee shall not be granted unless the following apply:-
  - (i) the Minister must complete the Employer Notification and relevant mobilisation paperwork from the Ministry of Defence, naming the Church of Scotland, Ministries Council, 121 George Street, Edinburgh EH2 4YN as his or her employer, in order that the appropriate compensatory arrangements for the period of military service will be made to the Ministries Council (for the avoidance of doubt, all compensatory payments made to the Church during the Minister’s period of military service shall belong to the Ministries Council);
  - (ii) confirmation must be received from the Ministry of Defence that satisfactory arrangements are in place as to insurance against personal injury and death during the period of military service;
  - (iii) the Presbytery of the bounds must be able to give an assurance that a suitably qualified locum (full-time where possible) for the Minister’s charge will be appointed to serve for the period of the Minister’s absence on military service, such appointment to be wholly conditional on the consent of the Committee, in terms of these Regulations, being granted.
3. On all of the consents, as detailed above, having been granted, the Presbytery shall appoint an Interim Moderator and, in consultation with the Kirk Session, a suitably qualified locum (full-time where possible) for the charge who shall serve for the period of the Minister’s absence on military service. With the agreement of all parties the Interim Moderator and the locum may be the same person.
4. The Minister’s period(s) of military service shall not exceed six months in any six year period.
5. During periods of military service the Minister shall retain his or her status as Minister of the charge but shall be seconded by the Church to the Ministry of Defence who shall assume all of the responsibilities of an employer vis-à-vis the Minister. For the avoidance of doubt payment of stipend to the Minister shall cease for the duration of such periods.
6. During periods of military service the Church’s contributions to the Church of Scotland Pension Plan in respect of the Minister will be paid by the Church as though he or she were fulfilling all of the duties of a Parish Minister in the charge, UNLESS the Minister requests that employer contributions are made into the Armed Forces Pension Scheme (AFPS), in which case payment into the Church of Scotland scheme will cease until the Minister resumes Parish duties.
7. Regulations VI 2000 shall be repealed.



**I LEGAL AID IN DISCIPLINARY PROCEEDINGS REGULATIONS (REGS I 2018)**  
*Edinburgh, 19 May 2018, Session 3*

**Definitions**

1. In these Regulations, the following definitions apply:
  - (1) “Applicant” shall mean a person (1) who is subject to discipline in terms of the Discipline of Ministry Act (Act III 2001) (“the 2001 Act”), or the Discipline Act (Act I 2019) (“the 2019 Act”), (2) against whom disciplinary proceedings have been initiated in terms of Part 4 of the 2001 Act or Part 8 of the 2019 Act, or who wishes to accept a Censure with consent in terms of the 2019 Act, and (3) who is an applicant for legal aid;
  - (2) “Assisted Person” shall mean a person in respect of whom a Certificate is in force and, with reference to Rule 9 of Part One of the Schedule, and in respect of costs incurred before notice of the discharge or revocation of a Certificate is received by his or her solicitor, includes the person in respect of whom that Certificate was issued;
  - (3) “Certificate” shall mean a certificate issued by the Sub Committee in terms of Regulation 6 below;
  - (4) “Committee” shall mean the General Assembly’s Legal Questions Committee;
  - (5) “costs” shall mean the legal fees charged and outlays incurred (including any fees and expenses reasonably and necessarily incurred in relation to potential or actual witnesses) by the solicitor referred to in Rule 3(2) or 8(5);
  - (6) “Counsel” includes a solicitor advocate;
  - (7) “Fund” shall mean the Legal Aid Fund maintained by the Committee in accordance with Regulation 2 below;
  - (8) “legal aid” shall mean representation by the said solicitor and, where appropriate, by counsel or by a solicitor or counsel referred to in Rule 19(b) in any proceedings mentioned at subsection (1) above, on the terms provided for in these Regulations, and includes all such assistance as is usually given by a solicitor or by counsel in the steps incidental to such proceedings;
  - (9) “Minister” shall have the meaning ascribed to it in the Registration of Ministries Act (Act II 2017);
  - (10) “partner” means someone with whom an Applicant or Assisted Person lives as a couple, whether or not they are married and whether of the same or different sex;
  - (11) “Schedule” shall mean the schedule in three parts attached to these Regulations;
  - (12) “Secretary” shall mean the Secretary to the Sub Committee;
  - (13) “Sub Committee” shall mean a Legal Aid Sub Committee consisting of the Convener, Vice-Convener and one other member of the Committee. At least one member of the Sub Committee shall require to be legally qualified. The Depute Solicitor of the Church shall normally act as Secretary to the Sub Committee but shall not be a member thereof.

2. The Committee shall maintain the Fund, which shall be administered on behalf of the Committee by the Sub Committee. Subject to and in accordance with the provisions of these Regulations, including the Rules of Procedure set out in Part One of the Schedule and any supplementary rules made by the Committee in terms of Regulation 11, the Sub Committee may make such payments of costs out of the Fund as it may authorise by Certificate.
3. An Applicant shall be entitled to apply to the Sub Committee for legal aid in respect of legal costs incurred by him or her in one or other of the following situations: (1) in relation to disciplinary proceedings initiated in terms of Part 4 of the 2001 Act or Part 8 of the 2019 Act, and any appeal following thereon, in which case any award shall be restricted to the cost of work undertaken after the initiation of such disciplinary proceedings, or (2) or where the Applicant wishes to accept a Censure with consent in terms of the 2019 Act, in which case any award shall be restricted to the cost of work required to enable the Censure with consent to be accepted.
4. Before deciding whether to grant any legal aid and, if so, to what extent, the Sub Committee shall have regard to all the circumstances of the case including:-
  - (a) the nature of any right or interest of the Applicant which is at stake in the proceedings and whether such right or interest is of the nature of a civil right; and
  - (b) if so, whether, in the whole circumstances of the case, legal representation is necessary to enable the Applicant to receive a fair hearing; and
  - (c) having regard to financial resources available to the Applicant (including, as appropriate, the financial resources of the Applicant's partner and whether help is available or likely to become available from another source such as a trade union or insurance company), whether the Applicant could, without financial hardship, afford such representation

and legal aid shall not be granted if it appears to the Sub Committee that the Applicant could, without undue financial hardship to him or her or his or her dependants, afford to proceed without such assistance.

5.
  - (a) Legal aid shall not be granted to an Applicant who does not satisfy the capital and income eligibility criteria set out in Parts Two and Three of the Schedule<sup>3</sup>.
  - (b) Legal aid shall be granted in accordance with the sliding scale of disposable income and capital and subject to the contributions by the Assisted Person set out in Part Two of the Schedule.
  - (c) The legal aid payable from the Fund shall be limited to costs, or a contribution towards costs, up to the maximum levels of authorised expenditure agreed by the Sub Committee from time to time. Financial assistance with legal fees shall be limited to the costs or part of the costs of legal advice or representation by a solicitor or counsel and shall be paid direct to the solicitor referred to in Rule 3(2) of Part One.
  - (d) The Committee shall from time to time review (i) the capital and income eligibility criteria (ii) the sliding scale of disposable income and capital (iii) the level of contributions by the Assisted Person and shall be entitled to adjust each of these as it deems appropriate and shall report any adjustments made to the following General Assembly.

---

<sup>3</sup> A quick guide to disposable capital and income is available from the Secretary to the Sub Committee

6. The Sub Committee may issue a Certificate for the payment of the costs, or part of the costs, incurred by the Assisted Person subject to such conditions specified in the Certificate as the Sub Committee thinks fit. Without prejudice to the foregoing generality, the Sub Committee may issue a Certificate for:-
  - (a) The payment of a contribution towards costs of an amount specified in the Certificate; or
  - (b) The payment of costs subject to a contribution from the Applicant of an amount so specified; or
  - (c) The payment of such proportion of costs as may be so specified; or
  - (d) The payment of the costs of, or a specified proportion of the costs of, such part of the proceedings as may be so specified, whether by reference to issues in or stages of those proceedings.
7. Where on any application the Sub Committee considers that legal aid should not be granted, the Sub Committee before making a final decision shall afford the Applicant an opportunity of making representations, whether in writing or orally and whether in person or by his or her solicitor or counsel with respect to the application. For the avoidance of doubt, no payment from the Fund shall be made in respect of the making of such application.
8. The Secretary shall notify the Applicant and his or her solicitor in writing of the Sub Committee's decision on his or her application for legal aid, and of the grounds for that decision.
9. Where an application for legal aid is refused, no further application for legal aid may be made by the same Applicant in relation to the same proceedings unless it contains or is accompanied by further information showing a material change of circumstances.
10.
  - (a) A decision made in terms of these Regulations by the Sub Committee to refuse an application for legal aid shall not be subject to appeal or dissent and complaint or any other form of review, other than a procedural review carried out by another sub-committee of the Committee (the "Review Committee"), established for that purpose, consisting of three of its members, one of whom shall act as Convener and at least one of whom shall be qualified to practice as a lawyer.
  - (b) Such a review must be requested by the Applicant within fourteen days of the date on which the Sub Committee intimated its decision to the Applicant and can be sought only on one or more of the following grounds:
    - (i) that there was an irregularity or breach of procedure or of the principles of natural justice in the process followed by the Sub Committee which materially influenced its decision; and/or
    - (ii) that its decision was materially influenced by some incorrect material fact.
  - (c) Such a request shall be made by sending or delivering a written request to the Principal Clerk and such request shall also state, in brief, specific numbered propositions, the grounds which the Applicant considers justify a procedural review taking place.
  - (d) In the event that the Review Committee determines that one or both of the foregoing grounds have been established, it shall remit the matter back to the Sub

Committee with an instruction to reconsider its original decision in the light of the findings of the Review Committee.

- (e) In the event that the Review Committee determines that neither of the foregoing grounds has been established, the decision of the Sub Committee shall be deemed to have become final.
  - (f) The decision of the Review Committee shall be final and not subject to appeal, dissent and complaint or any other form of further review.
11. The Committee may make such further rules as it considers necessary or desirable for giving effect to, or for preventing abuses of, these Regulations and rules made under this subsection may in particular make provision:
- (a) as to any further procedure to be observed in relation to an application for legal aid including the design and content of the application form;
  - (b) as to the information to be furnished by any Applicant applying for or receiving legal aid and as to the provision of information by any solicitor acting for any such person; and
  - (c) enabling the Sub Committee to authorise a payment to account of legal expenses incurred by the Applicant in appropriate circumstances.

## **Schedule**

### **Part One**

#### **Rules of Procedure**

#### **GENERAL PROVISIONS**

##### **1. Meetings and procedure of the Sub Committee**

- (1) The quorum for meetings of the Sub Committee shall be two members.
- (2) The business of the Sub Committee may, if the Convener so directs and none of the other members objects, be carried out by correspondence (by letter or email) or by conference telephone call, video conference or the like electronic means.

##### **2. Notification of issue, amendment, discharge or revocation of Certificate**

Where any Certificate or any notice of the amendment, discharge or revocation of a Certificate is sent to any solicitor in accordance with Rule 6, 8 or 9 the solicitor shall lodge a copy of the Certificate or notice with either the Solicitor of the Church (where the proceedings to which the Certificate relates are before the Presbyterial Commission) or the Principal Clerk (where the proceedings to which the Certificate relates are before the Judicial Commission).

#### **APPLICATIONS FOR LEGAL AID AND ISSUE OF CERTIFICATES**

##### **3. Applications for legal aid**



- (1) An application for legal aid:
  - (a) shall be made in writing in a form approved by the Sub Committee; and
  - (b) shall be lodged with the Secretary.
- (2) Every application for legal aid shall state the name and address of the solicitor selected by the Applicant to act for him or her in the proceedings concerned. That solicitor must hold and continue to hold an unrestricted practising certificate issued by the Law Society of Scotland. The said application shall also contain such information and be accompanied by such documents as may be requisite to enable the Sub Committee
  - (a) to determine the nature of the proceedings to which the application relates; and
  - (b) to reach a view on the matters set out at Regulation 4 (a) to (c) above.
- (3) Any application for legal aid shall contain an undertaking made by the Applicant and an undertaking by the said solicitor that they will comply with these Regulations, and any such undertakings shall be made on forms approved by the Sub Committee, or in such other manner, being in writing, as the Secretary may accept as sufficient in the circumstances of the case. Any solicitor appointed in terms of Rule 8(5) shall give an undertaking in said terms.
- (4) The Applicant irrevocably waives his or her right of confidentiality insofar as its exercise would otherwise hinder or restrain his or her solicitor's ability to comply with Rule 14.

#### **4. Provision of additional information**

An Applicant shall, if required by the Secretary or the Sub Committee to do so for the purpose of providing additional information:

- (a) attend for interview by the Secretary or the Sub Committee;
- (b) supply such further documents or other information as the Secretary or the Sub Committee may require.

#### **5. Interim Certificates**

- (1) The Secretary may issue an interim Certificate for legal aid on behalf of the Sub Committee in any case in which the Secretary on receiving an application under Rule 3 considers that there are reasonable grounds for concluding that the Applicant should be granted legal aid in respect of the whole or part of the costs to be incurred by any person before the determination of the application by the Sub Committee.
- (2) Before issuing an interim Certificate under paragraph (1) the Secretary shall consult the Convener of the Sub Committee or, if it is not practicable to do so, shall consult the two other members of the Sub Committee one of whom shall be legally qualified.

#### **6. Issue and contents of Certificates**

- (1) The Secretary shall send any Certificate issued by or on behalf of the Sub Committee to the Applicant's solicitor and shall send a copy of the Certificate to the Applicant.
- (2) In addition to any provision included in the Certificate by virtue of Regulation 6, the Certificate shall specify:
  - (a) the date on which it is issued;
  - (b) the name and address of the Applicant;
  - (c) the name and address of the Applicant's solicitor; and

- (d) the proceedings to which the Certificate relates.

## **7. Contribution by Assisted Person**

Where a Certificate is issued under Regulation 6 (b), any contribution to be made by the Assisted Person which is specified in the Certificate shall not be payable to the Sub Committee or into the Fund, but the amount paid or payable out of the Fund on the authority of the Certificate shall not exceed the amount (if any) by which the total amount of the costs incurred by the Assisted Person, as taxed or assessed in accordance with these Rules, exceeds the amount of that contribution.

## **AMENDMENT, DISCHARGE AND REVOCATION OF CERTIFICATES**

### **8. Power to amend Certificates**

- (1) The Sub Committee may, either on the request of the Assisted Person or of its own motion, amend any Certificate issued by it where in its opinion:
  - (a) there is a mistake in the Certificate; or
  - (b) it has become desirable for the Certificate to extend to additional proceedings; or
  - (c) it has become desirable for the Certificate to extend to additional stages of, or to reduce or restrict it from certain stages of, the proceedings in respect of which it was issued; or
  - (d) there has been a material change in the financial circumstances of the Assisted Person;

or where the Assisted Person desires to change his or her solicitor or where his or her solicitor withdraws from the conduct of the case. Any new solicitor assuming the agency must hold and continue to hold an unrestricted practising certificate issued by the Law Society of Scotland.

- (2) Application for the amendment of a Certificate shall contain such information and be accompanied by such documents as the Secretary considers necessary or desirable to enable the Sub Committee to determine the application, and Rules 3(1) and 4, and Regulations 4, 8, 9 and 10 shall apply in relation to an application for the amendment of a Certificate as they apply in relation to an application for legal aid.
- (3) Before amending a Certificate in the circumstances specified in paragraph (1)(c) or (d) so as to reduce or restrict the Assisted Person's entitlement to legal aid, the Sub Committee shall:
  - (a) notify the Assisted Person that it is considering making the amendment; and
  - (b) afford him or her an opportunity of making representations, whether in writing or orally and whether in person or by his or her solicitor or counsel, with respect to the proposed amendment.
- (4) An amendment to a Certificate shall take effect from such date as the Sub Committee may specify, and (subject to Rule 11) shall have effect in respect of costs incurred on or after that date.
- (5) Where a Certificate has been amended the Secretary shall send notice of the amendment, specifying the date from which it takes effect, together with a copy of the notice, to the Assisted Person's solicitor for the time being, and shall send a further copy of the notice to the Assisted Person.

## **9. Power to discharge or revoke Certificates**

- (1) The Sub Committee may terminate a Certificate by discharging or revoking it in accordance with this Regulation.
- (2) Subject to Rule 11:
  - (a) where a Certificate is discharged, that Certificate shall cease to be in force on the date from which the discharge takes effect; and
  - (b) where a Certificate is revoked, that Certificate shall be deemed never to have been in force.
- (3) The Sub Committee may discharge a Certificate in the following circumstances:
  - (a) where the Assisted Person has requested or consented to the discharge;
  - (b) where the Sub Committee is satisfied that
    - (i) the Assisted Person has died or has had a bankruptcy order made against him or her; or
    - (ii) the proceedings or the part of the proceedings to which the Certificate relates have or has been disposed of or completed;
  - (c) where as a result of information which has come to the Sub Committee it is satisfied that:
    - (i) the Assisted Person no longer has reasonable grounds for taking, defending or being a party to the proceedings or for continuing to do so;
    - (ii) the Assisted Person has required the proceedings to be conducted unreasonably so as to incur an unjustifiable expense to the Fund or has required unreasonably that the proceedings be continued;
    - (iii) the financial circumstances of the Assisted Person are such that he or she could afford to proceed without legal aid; or
    - (iv) it is unreasonable in the particular circumstances that the Assisted Person should continue to receive legal aid.
- (4) Where as a result of information which has come to the Sub Committee:
  - (a) the Sub Committee is satisfied that an Assisted Person has willfully failed to comply with these Rules or Regulations; or
  - (b) it is satisfied that an Assisted Person has knowingly made a false statement or false representation in connection with an application for legal aid or for an amendment of a Certificate; or
  - (c) it is satisfied that an Assisted Person has failed to disclose a material fact in connection with an application for legal aid or an application for an amendment of a Certificate, and he or she cannot show that he or she used due care and diligence to avoid that failure,

the Sub Committee may discharge the Certificate issued in respect of the Assisted Person or, if the act or omission or the first of the acts or omissions by the Assisted Person specified in sub-paragraph (a), (b) or (c) occurred before the date on which the Certificate was issued, may revoke the Certificate.

- (5) Before discharging a Certificate in the circumstances specified in paragraph (3) (c) or discharging or revoking a Certificate in the circumstances specified in paragraph (4), the Sub Committee shall:
  - (a) notify the Assisted Person that it is considering the discharge or revocation of the Certificate; and
  - (b) afford him or her an opportunity of making representations, whether in writing or orally and whether in person or by his or her representative, with respect to the proposed discharge or revocation.
- (6) The discharge of a Certificate under the foregoing provisions of this Rule shall take effect from such date as the Sub Committee may consider appropriate.
- (7) Where a Certificate is discharged or revoked the Secretary shall send notice of the discharge or revocation (specifying in the case of a discharge the date from which it takes effect), together with a copy of the notice, to the solicitor of the person in respect of whom a certificate had been issued and shall (except where the Certificate has been discharged because of the death of that person) send a further copy of the notice to that person, in each case stating the grounds for the action taken.

#### **10. Effect of amendment, discharge or revocation on costs already incurred**

- (1) Where a Certificate is amended so as to reduce or restrict the amount of legal aid payable under it or is discharged or revoked, that amendment, discharge or revocation shall not affect the payment, or the amount of the payment, out of the Fund to the solicitor of the person in relation to whom the Certificate was issued in respect of costs incurred before the date on which notice of the amendment, discharge or revocation is received by that solicitor.
- (2) Where a Certificate has been amended or discharged with effect from a date earlier than the date on which notice of the amendment or discharge is received by the solicitor of the person to whom the Certificate was issued, that person accepts personal liability for and shall pay into the Fund the amount of any legal aid paid or payable to his solicitor by virtue of paragraph (1) in respect of costs incurred between those dates.
- (3) Where a Certificate has been revoked, the person to whom it was issued accepts personal liability for and shall pay into the Fund the amount of any legal aid paid or payable to his or her solicitor by virtue of paragraph (1) in respect of costs incurred before the date on which notice of the revocation is received by that solicitor.

### **CONDUCT OF PROCEEDINGS**

#### **11. Notification of changes in circumstances**

- (1) An Applicant or Assisted Person shall forthwith inform his or her solicitor of:
  - (a) any material change in his or her financial circumstances; and
  - (b) any other change in the circumstances of his or her case which he or she has reason to believe might affect the terms or continuation of the Certificate, andan Applicant's or Assisted Person's solicitor who receives any such information from the Applicant or Assisted Person or otherwise shall forthwith report that information to the Sub Committee.
- (2) Without prejudice to paragraph (1), where a solicitor who has acted or is acting for an Assisted Person is:

- (a) aware that the Assisted Person has died or granted a protected trust deed or applied for a debt payment programme or has had a bankruptcy order made against him; or
  - (b) satisfied that the proceedings or the part of the proceedings to which the Certificate relates have or has been disposed of or completed,
- he or she shall forthwith report those matters to the Sub Committee.

## **12. Abuse of legal aid**

- (1) Where an Assisted Person's solicitor has reason to believe that any of the circumstances mentioned in paragraph (3) exist, he or she shall forthwith report those circumstances to the Sub Committee.
- (2) Where at any time during the hearing of any proceedings in respect of which legal aid is granted, the Presbyterial Commission or the Judicial Commission (as the case may be) considers that any of the circumstances mentioned in paragraph (3) exist, it may make an order referring to the Sub Committee the question of whether the Assisted Person's Certificate should continue.
- (3) The circumstances referred to in paragraphs (1) and (2) are that:
  - (a) the Assisted Person has required the proceedings to which the Certificate relates to be conducted unreasonably so as to incur an unjustifiable expense to the Fund or has required unreasonably that the proceedings be continued;
  - (b) the Assisted Person has wilfully failed to comply with these Regulations;
  - (c) the Assisted Person has knowingly made a false statement or false representation in connection with an application for legal aid or for amendment of a Certificate;
  - (d) the Assisted Person has failed to disclose a material fact in connection with an application for legal aid or for amendment of a Certificate and he or she cannot show that he or she used due care and diligence to avoid that failure.
- (4) Where it appears to the Sub Committee that a person has, with intent to reduce that person's disposable income or disposable capital, whether for the purpose of making that person eligible for legal aid, reducing that person's liability to pay a contribution towards civil legal aid or otherwise
  - (a) directly or indirectly deprived that person of any resources; or
  - (b) converted any part of that person's resources into resources which under these Regulations are to be wholly or partly disregarded or in respect of which nothing is to be included in determining the resources of that person

the resources of which that person has so deprived himself or herself or which he or she has so converted shall be treated as part of that person's resources or as not so converted, as the case may be.
- (5) Where it appears to the Sub Committee that any solicitor has, in connection with the provision of legal aid, acted in such a way as to justify action being taken against him or her by the Law Society of Scotland or the Scottish Solicitors' Discipline Tribunal it shall refer the matter to either of those bodies so that they can consider whether to take action. Where the Sub Committee has referred a matter to either of the bodies mentioned it may withhold payment of any fees due to him or her in respect of legal aid pending the outcome of the investigation by the body or bodies to which the matter has been referred.

**13. Provision of further information**

An Assisted Person and his or her solicitor shall give to the Sub Committee such information regarding the progress and disposal of the proceedings in respect of which the Certificate has been issued as the Sub Committee may from time to time require to enable it to perform its functions.

**14. Power of Sub Committee to request documents.**

- (1) The Sub Committee may, for the purpose of determining whether a solicitor may be seeking to recover from the Fund money to which he or she is not entitled, as, for example, by performing unnecessary work, or where a solicitor is or may not be complying with his or her obligations under these Regulations, request any solicitor to produce such documents relating wholly or partly to the provision of legal aid as it may specify, at such time and place as it may specify.
- (2) If it appears to the Sub Committee that there is good reason to do so, it may request any solicitor to produce forthwith any such documents as are mentioned above.
- (3) The power under this section to request production of documents includes power:
  - (a) to request any person, who is a present or past partner or employee of any such solicitor or his or her firm and who appears to the Sub Committee to have any documents, to produce them;
  - (b) if any documents are produced:
    - (i) take copies of them or extracts from them; and
    - (ii) to request the person producing them, or any other person who is a present or past partner or employee of the solicitor or his or her firm, to provide an explanation of them;
  - (c) if any document or information is held other than in legible form, to request the production of a copy of it in legible form; and
  - (d) if documents are not produced, to ask the person who was requested to produce them to state, to the best of his knowledge and belief, where they are.
- (4) No documents obtained by the Sub Committee by virtue of this Rule shall be used by it for any purpose other than the purposes mentioned in subsection (1) above.

**15. Privilege etc. not to prevent disclosure**

- (1) No solicitor shall be precluded, by reason of any privilege arising out of the relationship between solicitor and client, from disclosing to the Sub Committee any information or documents or from giving any opinion which:
  - (a) he or she is required to disclose or give to the Sub Committee under these Regulations; or
  - (b) may enable the Sub Committee to perform its functions.
- (2) For the purpose of providing information under these Regulations to enable the Sub Committee to perform its functions, any party to proceedings to which an Assisted Person is or was a party may disclose to the Sub Committee communications relating to those proceedings which have been sent by the Assisted Person's solicitor, whether or not they are expressed to be "without prejudice".

**16. False information etc.**

If any Assisted Person, person seeking legal aid or person in respect of whom a certificate has been issued

- (a) wilfully fails to comply with any Regulations as to the information to be furnished by him or her; or
- (b) for the purpose of obtaining legal aid knowingly makes any false statement or false representation,

he or she may be guilty of a disciplinary offence for the purposes of the Act.

## **COSTS**

### **17. Authority to incur costs**

(1) Where:

- (a) it appears to the Assisted Person's solicitor to be necessary for the proper conduct of proceedings to which the Certificate relates to incur costs by taking any of the steps specified in paragraph (2); and
- (b) payment of legal aid in respect of those costs is not specifically authorised by the Certificate,

the Assisted Person's solicitor shall apply to the Sub Committee for authority to incur those costs, and no payment of legal aid shall be made in respect of any such costs incurred in advance of the solicitor's first having obtained authority from the Sub Committee. Authority may be granted subject to any restriction, condition or qualification as to cost limits or otherwise as to the Sub Committee shall seem reasonable.

(2) The steps referred to in paragraph (1) are:

- (a) lodging an appeal;
- (b) obtaining a report or opinion from one or more experts or tendering expert evidence;
- (c) employing a person to provide a report or opinion (other than as an expert) or paying a person (not being an expert witness) a fee to prepare a report or opinion and to give evidence if required;
- (d) requiring transcripts of shorthand notes or tape recordings of any proceedings;
- (e) performing any act which either is unusual in its nature or involves unusually large expenditure.
- (f) Instructing junior counsel.
- (g) Instructing senior counsel.

(3) Authority may be granted retrospectively on special cause shown.

### **18. Costs for legal aid to be taxed or assessed**

Legal aid shall be payable only in respect of costs of an Assisted Person which have been taxed or assessed in accordance with these Rules.

### **19. Restriction on payment and employment of solicitor or counsel**

Where legal aid is available to a person in connection with any proceedings (whether legal aid is available in connection with all or only part of the proceedings):-

- (a) the solicitor or counsel providing legal aid shall not take any payment in respect of any advice given or anything done in connection with such proceedings during any period when legal aid was so available except for such payment as may be made, in accordance with these Regulations; and
- (b) without prejudice to any right of a solicitor or advocate to entrust it to another solicitor or advocate, no solicitor or counsel other than the solicitor or counsel referred to in Rule 3(2) shall advise or act for him in connection with the proceedings.

## **20. Taxation of costs**

- (1) Any taxation of costs under these Regulations may be carried out in such manner as the Sub Committee considers appropriate. Without prejudice to the generality of the foregoing the Sub Committee may refer the matter for taxation to an Auditor of the Court of Session, Sheriff Appeal Court or any Sheriff Court and the Assisted Person agrees to be bound by the determination of such Auditor. Liability for the fees and other costs incurred in taxation shall be a matter for the discretion of the Sub Committee.
- (2) In any proceedings for taxation in accordance with these Regulations the Sub Committee shall have power to require the attendance of witnesses and production of documents so far as is necessary for the discharge of its functions or those of any Auditor.
- (3) Proceedings for taxation of costs in accordance with these Regulations shall be commenced by the Assisted Person's solicitor:
  - (a) lodging with the Secretary an application in writing for taxation, together with the bill of costs and all necessary papers and vouchers (including copies of the Certificate and of any notice of amendment, discharge or revocation of the Certificate); and
  - (b) serving on any other party copies of the application and the bill of costs.
- (4) The Secretary may deal with the taxation of costs by correspondence or may elect to fix a time and place for a taxation hearing and if a hearing is deemed to be appropriate shall give not less than seven days' notice of that time and place to the Assisted Person's solicitor and any other party.
- (5) If:
  - (a) any other party does not attend at the time and place fixed for the taxation; and
  - (b) the Sub Committee is satisfied that he or she had due notice of that time and place,the Sub Committee or Auditor may proceed with the taxation in his absence.
- (6) Without prejudice to any other provision of these Regulations or any statutory provision, on a taxation in accordance with these Regulations:
  - (a) any costs in excess of the appropriate level of authorised expenditure allowed in terms of Regulation 5 (c) shall be disallowed;
  - (b) any costs wasted by failure to conduct the proceedings with reasonable competence and expedition shall be disallowed or reduced; and
  - (c) where a solicitor has without good reason failed within four months to put in his or her bill for taxation, the whole of the costs covered by that bill may be disallowed or reduced.



- (7) No costs shall be disallowed or reduced under paragraph (6) unless notice has been served by the Sub Committee on the solicitor in question requiring the solicitor to show cause orally or in writing why those costs should not be disallowed or reduced.
- (8) For the purposes of this rule “other party” means any person other than the Assisted Person who is or was a party to the proceedings to which the Certificate relates and who has an interest in the taxation.

## **21. Assessment of costs**

- (1) Paragraph (2) applies where Rule 20 requires any costs to be taxed or assessed in accordance with these Regulations and where:
  - (a) the retainer of the Assisted Person’s solicitor was determined before the proceedings in question were begun, and there has been no subsequent change in the Assisted Person’s solicitor; or
  - (b) the Assisted Person’s solicitor is of opinion that the total amount of the costs which he or she would receive after a taxation in accordance with these Regulations would not be more than £1,000 (or any greater sum for the time being authorised by the Sub Committee for the purposes of this Rule); or
  - (c) there has been an agreement in respect of the amount of the costs to be paid to the Assisted Person, and the Assisted Person’s solicitor is willing to accept that agreed amount in full satisfaction of work done; or
  - (d) there are special circumstances in which a taxation:
    - (i) would be against the interests of the Assisted Person; or
    - (ii) would increase the amount payable out of the Fund.
- (2) Where this paragraph applies the Assisted Person’s solicitor may apply in writing to the Secretary for an assessment by the Sub Committee of the amount of the Assisted Person’s costs.
- (3) On any such application the Sub Committee may if it thinks fit assess the amount of those costs without a taxation.
- (4) Where no such application has been made and the Sub Committee is satisfied that:
  - (a) there are special circumstances rendering it desirable to assess the amount of those costs without a taxation; and
  - (b) to do so would not be against the interests of the Assisted Person,the Sub Committee may assess the amount of those costs without a taxation.
- (5) An assessment under this Rule shall be carried out so as to allow:
  - (a) as nearly as may be the same amount of costs as would have been allowed on a taxation under these Regulations; or
  - (b) if the Sub Committee thinks fit in a case within sub-paragraph (1)(c), the agreed amount referred to in that sub-paragraph.

## **Part Two**

### **Financial Eligibility**

#### Disposable Income and capital range and maximum contribution – sliding scale

**Disposable capital** (as defined in Part Three of this Schedule)

Lower limit on or below which an Assisted Person will not have to pay a contribution: **£7,853**.

Upper capital limit above which the Sub Committee may refuse an Applicant legal aid if it considers that he or she can afford to proceed without it: **£13,017**.

If a person has disposable capital of between **£7,853 and £13,017** he or she is eligible on capital, but will have to pay a contribution. This contribution is equal to the difference between his or her capital and £7,853.

If a person has capital worth over **£13,017** he or she will not be eligible for legal aid, unless it appears to the Sub Committee that he or she cannot afford to proceed without legal aid.

**Disposable Income** (as defined in Part Three of this Schedule)

Lower disposable limit on or below which a person will not have to pay a contribution: **£3,521** p.a

Upper disposable limit above which a person will be ineligible on income: **£26,239** p.a

**Income contributions**

<b>Annual Disposable income</b>	<b>Contribution rates applied to income in that range</b>
Below £3,521	0%
£3,522 - £11,540	33%
£11,541 - £15,743	50%
£15,744 - £26,239	100%
Above £26,239	Ineligible

**Part Three**  
**Financial Eligibility**

Detailed rules as to calculation of capital and income

**A. Calculation of disposable capital**

1. Subject to the provisions of these Regulations, there shall be included in the computation of the Applicant's capital the amount or value of every resource of a capital nature available to the Applicant and his or her partner ascertained as on the date of the application for legal aid. Where it is brought to the notice of the Sub Committee that, between the date of the application and the determination, there has been a substantial fluctuation in the value of a resource or there has been a substantial variation in the nature of a resource affecting the basis of computation of its value, or any resource has ceased to exist or a new resource has come into the possession of the person concerned, the Sub Committee shall compute the capital resources of the Applicant in the light of such facts and the resources as so computed shall be taken into account in the determination.

2. So far as any resource does not consist of money, the amount or value thereof shall be taken to be the amount which that resource would realise if sold in the open market or, if there is only a restricted market for that resource, the amount which it would realise in that market, or shall be taken to be the amount or value thereof assessed in such manner as appears to the Sub Committee to be just and equitable.
3. Where money is due to the Applicant or his or her partner, whether immediately payable or otherwise and whether the payment thereof is secured or not, the value shall be taken to be the present value thereof.
4. If the Applicant or his or her partner stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, the Sub Committee may, in lieu of ascertaining the value of stocks, shares, bonds or debentures in that company, treat the Applicant or their partner as if he or she were such sole owner or partner and compute the amount of his or her capital in respect of that resource in accordance with the succeeding rule.
5. Where the Applicant or his or her partner is or is to be treated as the sole owner of or a partner in any business, the value of such business or their share therein shall be taken to be either:
  - (a) such sum, or the Applicant's or his or her partner's share of such sum, as the case may be, as could be withdrawn from the assets of such business without substantially impairing the profits of such business or the normal development thereof; or
  - (b) such sum as the Applicant or his or her partner could borrow on the security of his or her interest in such business without substantially injuring the commercial credit of that business;whichever is the greater.
6. The value of any interest, whether vested or contingent, of the Applicant or his or her partner in the fee of any heritable or moveable property forming the whole or part of any trust or other estate, shall be computed by the Sub Committee in such manner as appears to it to be both equitable and practicable.
7. In computing the amount of capital of the Applicant or his or her partner where he or she is in receipt of income support under section 124 of the 1992 Act or an income-based jobseeker's allowance (payable under the Jobseekers Act 1995) or an income-related employment and support allowance or universal credit under Part 1 of the Welfare Reform Act 2012, , there shall be disregarded any amount which exceeds the sum for the time being specified as the disposable capital lower limit in Part Two of the Schedule.
8. In computing the amount of capital of the Applicant or his or her partner, there shall be wholly disregarded:
  - (a) any Welfare Fund payment;
  - (b) a back to work bonus (payable under the Jobseekers Act 1995);

- (c) any payment made under the Community Care (Direct Payments) Act 1996 or as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013.
- 9. Save in exceptional circumstances, nothing shall be included in the amount of capital of the Applicant or his or he partner in respect of:
  - (a) the household furniture and effects of the dwelling house occupied by that person and (if a manse) of any other dwelling house owned by the Applicant and/or their partner;
  - (b) articles of personal clothing; and
  - (c) any personal tools and equipment of the Applicant's trade, not being part of the plant or equipment of a business to which the provisions of Rule 5 of this Part Three A of the Schedule apply.
- 10. (1) In computing the amount of capital of the Applicant or his or her partner, the value of any interest in the main or only dwelling in which he or she resides or owns shall be wholly disregarded.
  - (2) Where the Applicant resides in or owns more than one dwelling in which that person has an interest, the Sub Committee shall decide which is the main dwelling and shall take into account, in respect of the value to the Applicant of any interest in a dwelling which is not the main dwelling, (i) any sum which might be obtained by borrowing money on the security thereof and (ii) any sum accruing to him or her by way of rent on such dwelling.
- 11. Where the Applicant has received or is entitled to receive from a body of which he or she is a member a sum of money by way of legal aid towards the cost of the proceedings in respect of which legal aid is applied for, such sum shall be disregarded.
- 12. The value of any life assurance or endowment policy shall be taken to be the amount which the Applicant could readily borrow on the security thereof.
- 13. Where under any bond, agreement, indemnity, guarantee or other instrument the Applicant is under a contingent liability to pay any sum or is liable to pay a sum not yet ascertained, an allowance shall be made of such an amount as is reasonably likely to become payable within the 12 months immediately following the date of application for legal aid.
- 14. An allowance may be made in respect of any debt owed by the Applicant (other than a debt secured on the dwelling or dwellings in which that person resides) to the extent to which the Sub Committee considers reasonable, provided that he or she produces evidence to its satisfaction that the debt or part of the debt will be discharged within the twelve months immediately following the date of the application.
- 15. In computing the amount of capital of the Applicant there shall be wholly disregarded any capital payment received from any source which is made in relation to the subject matter of the dispute in respect of which the application for legal aid has been made.

16. In computing the amount of capital there shall be disregarded such an amount of capital, if any, as the Sub Committee in the circumstances of the case may in its discretion decide.

**B. Calculation of disposable income**

1. The income of the Applicant or his or her partner from any source shall be taken to be the income which that person may reasonably expect to receive (in cash or in kind) during the preceding year.
2. The income in respect of any emolument, benefit or privilege receivable otherwise than in cash shall be estimated at such a sum as in all the circumstances is just and equitable but shall not include any sum in relation to the occupation of a manse by a Minister.
3. (1) The income from any gainful occupation other than stipend, or employment at a wage or salary, shall be deemed to be whichever of the following the Sub Committee considers more appropriate and practicable:
  - (a) the profits which have accrued or will accrue to the Applicant or their partner in respect of the period of computation; or
  - (b) the drawings of the person concerned.(2) In calculating the profits and drawings referred to in paragraph (1) above:
  - (a) the Sub Committee may have regard to the profits of the last accounting period of such trade, business or gainful occupation for which accounts have been prepared; and
  - (b) there shall be deducted all sums necessarily expended to earn those profits, but no deduction shall be made in respect of the living expenses of the Applicant or any member of that person's family or household, except in so far as that person is wholly or mainly employed in that trade or business and such living expenses form part of that person's remuneration.
4. (1) In computing the disposable income of the Applicant or his or her partner there shall be deducted the total amount of tax which it is estimated would be payable by the Applicant or his or her partner if his or her income, as computed in accordance with this Part Three B of the Schedule (but without taking into account the operation of Rule 10(1) of this Part Three B of the Schedule), were that person's income for a fiscal year and that person's liability for tax in that year were to be ascertained by reference to that income and not by reference to that person's income in any other year or period.
  - (2) For the purposes of this rule the tax shall be estimated at the rate provided by and after making all appropriate allowances, deductions or reliefs in accordance with the provisions of the Income Tax Acts in force for the fiscal year current at the date of the application.

5. In computing the disposable income of the Applicant or his or her partner, there shall be disregarded:
  - (a) income support paid under section 124 of the Social Security Contributions and Benefits Act 1992 ("the 1992 Act");
  - (b) an income-based jobseeker's allowance (payable under the Jobseekers Act 1995);
  - (c) a back to work bonus (payable under the Jobseekers Act 1995);
  - (d) any payment made under the Community Care (Direct Payments) Act 1996 or as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013;
  - (e) state pension credit (payable under the State Pension Credit Act 2002);
  - (f) an income-related employment and support allowance;
  - (g) universal credit paid under Part 1 of the Welfare Reform Act 2012.
  - (h) attendance allowance paid under section 64 of the 1992 Act;
  - (i) disability living allowance paid under section 71 of the 1992 Act;
  - (j) constant attendance allowance paid as an increase to a disablement pension under section 104 of the 1992 Act.
6. When the income of the Applicant or his or her partner consists, wholly or in part, of stipend or a wage or salary from employment there shall be deducted:
  - (a) the amount of any payments reasonably made for travel to and from his or her workplace, membership of a trade union or professional organisation; and
  - (b) the amount of any contribution paid, whether under a legal obligation or not, to an occupational pension scheme within the meaning of the Social Security Pensions Act 1975 or to a personal pension scheme within the meaning of section 1 of the Pension Schemes Act 1993.
7. There shall be a deduction in respect of the amounts payable or estimated to be payable in the 12 months following the application by the Applicant in respect of:
  - (a) Council Tax; and
  - (b) Water and Sewerage Charges.
8. (1) There shall be a deduction, in respect of (a) mortgage payments or (b) rent of the main or only dwelling in the case of a householder, of the amount of the net mortgage or rent paid or such part thereof as is reasonable in the circumstances. Any contributions received from any other person towards that payment of mortgage or rent shall be taken into account as income, and the Sub Committee shall decide which is the main dwelling where the Applicant resides in more than one dwelling in which he or she has an interest.

- (2) In this rule the expression "rent" means:
- (a) the rent payable in respect of a year; and
  - (b) a sum in respect of the yearly outgoings borne by the householder including, in particular, a reasonable allowance towards any necessary expenditure on repairs and insurance and any other annual burden.
- (3) In this rule the expression "net rent" means:
- (a) the rent less any proceeds of subletting any part of the premises in respect of which the said rent is paid or the outgoings incurred; or
  - (b) where any person or persons other than the Applicant, his or her partner or any dependent of the Applicant is accommodated, otherwise than as a subtenant, in the premises for which the rent is paid, the rent less such an amount as the Sub Committee may determine to be reasonably attributable to the accommodation of such person.
9. If the Applicant is not a householder, there shall be a deduction in respect of the cost of that person's living accommodation of such amount as is reasonable in the circumstances.
10. (1) There shall be a deduction in respect of the maintenance of the partner of the Applicant, if they are living together, and in respect of the maintenance of any person wholly or substantially maintained by the Applicant, being a member of his or her household, ("a dependent person") at the following rates:-
- (a) in the case of a partner, at a rate of £2,177;
  - (b) in the case of a dependent person, at a rate of £3,488;
- Provided that the Sub Committee may reduce such rate by taking into account the income and other resources of the dependent person to such extent as appears to it to be just and equitable.
- (2) In ascertaining whether a person is a dependent person regard shall be had to their income and other resources.
11. If the Applicant is making and, throughout such period as the Sub Committee may consider adequate, has regularly made *bona fide* payments for the maintenance of a partner who is living apart, of a former partner, of a child or of a relative who is not (in any such cases) a member of the household of the Applicant, there shall be a deduction at the rate of such payments or at such rate, not exceeding the rate of such payments, as in all the circumstances is reasonable.
12. Where the Applicant must provide for any other matter the Sub Committee may make an allowance of such amount as it considers to be reasonable in the circumstances of the case.
13. In computing income from any source there shall be disregarded such amount, if any, as the Sub Committee considers to be reasonable having regard to the nature of the income or to any other circumstances of the case.





## **II CONTINUING PARISH MINISTRY BEYOND THE AGE OF 75 REGULATIONS (REGS II 2018)**

*Edinburgh, 22 May 2018, Session 11*

The provisions for continuation as a Parish Minister beyond the age of seventy five (75), as referred to in section 18(4) of the Parish Ministry Act (Act II 2018), are as follows:

1. In operating the process set out in these Regulations and making a decision on whether or not to continue the tenure of the Parish Minister in question, the Presbytery shall have primary regard to the mission of the Church, both in the Parish in question and in the Presbytery. The Presbytery shall not take into account any personal reasons put forward by the Parish Minister to support his or her request.
2. The process shall be initiated by the Parish Minister, by lodging with the Presbytery Clerk, not less than six months before the Parish Minister's seventy fifth birthday, a request for consideration in terms of these Regulations. Such a request shall be copied to the Ministries Council for their interest. The process can be terminated at any time by the Parish Minister withdrawing his or her request to have tenure continued.
3. The Parish Minister may request a continuation of his or her tenure as minister of the charge which he or she currently serves for a period of not less than one year and not more than two years from his or her seventy-fifth birthday.
4. Upon receipt of the Parish Minister's request, the Presbytery shall establish a Consultative Committee of three persons, of whom at least one shall be a Minister and one shall be an elder but which shall not include the Presbytery Clerk. If required, the Presbytery may use the Co-operation among Presbyteries Act (Act VI 2002) to fulfil the appointments. The Committee shall choose one of its own number to act as Clerk.
5. The Committee shall consult with all interested parties (including, for the avoidance of doubt, the Session Clerk(s) of the charge and the Presbytery Clerk) and shall take into account the following issues before making a recommendation to Presbytery:
  - (a) The effect upon implementation of the current Presbytery Plan of a continuation of the tenure of the Parish Minister in the current charge;
  - (b) The state of the charge and future plans for the charge, both as assessed and as anticipated through Local Church Review and through the Presbytery's general superintendence of the charge;
  - (c) Whether it is likely to be effective and beneficial for the charge in the longer term if tenure is continued;
  - (d) The opinion of the congregation(s) and its/their office bearers which shall be gauged by meeting with the Kirk Session(s) in the absence of the Parish Minister; and
  - (e) The terms of an Occupational Health Report on the Parish Minister, instructed by the Ministries Council and assessing the fitness of the Parish Minister to continue in post in the current charge for the period for which the request has been made. The terms of the Report shall be kept strictly confidential among the members of the Committee and shall be shared only with the Parish Minister. If relevant to any recommendation made by the Committee, the Report shall be referred to only in terms of being or not being a factor in their decision and no detail shall be shared outwith the Committee.

6. The Committee shall make its recommendation to a meeting of the Presbytery, where the Parish Minister shall be entitled to be heard in his or her interest. The Presbytery meeting shall be held in private and proceedings shall be recorded in a Record Apart. In making its recommendation, and in reaching its decision, the Committee and the Presbytery shall be obliged to have primary regard to the aims set out in paragraph 1 of these Regulations.
7. The Presbytery itself shall decide whether or not to continue the Parish Minister's tenure as Minister of the charge which he or she currently serves and for what period (declaring always that this may be different from the period for which request is made but may not be less than one year or more than two years).
8. Any person with a legitimate interest who is aggrieved by the Presbytery's decision shall have the right to dissent and complain or appeal the decision to the Ministries Appeal Panel by lodging intimation with both the Presbytery Clerk and the Principal Clerk within fourteen days of the decision. The only grounds for dissent and complaint or appeal shall be that there was a material irregularity of process or that the decision was influenced by an incorrect material fact.
9. The process specified in these Regulations may be repeated not less than six months before expiry of the period for which any continuation of tenure is granted.

## **II RESTRICTED CERTIFICATES OF ELIGIBILITY REGULATIONS (REGS II 2020)**

*Edinburgh, 2 October 2020, Session 1*

1. The Presbytery of International Charges, when recruiting to ministry in that Presbytery in terms of a Restricted Certificate of Eligibility, as referred to in the Admission and Re-admission of Ministers Act (Act IX 2002), shall ensure as follows:
  - (1) That the following conditions are satisfied before a recruit is introduced to a charge:
    - (a) That the applicant is interviewed in person and the Presbytery is satisfied that the applicant is suitable for introduction to the charge;
    - (b) That the applicant is theologically suitable to be ministering in the Church of Scotland;
    - (c) That all necessary Safeguarding checks and confirmations are obtained as to the applicant's suitability for Regulated Work, as defined in the Safeguarding Act (Act XVI 2018) and as that term can practicably be understood in the country where the applicant would be introduced to a charge, such checks to be undertaken in both the country where the applicant would be introduced to a charge and in the applicant's home nation, all in accordance with advice obtained from the Safeguarding Service;
  - (2) That the following conditions are satisfied within 3 months after a recruit is introduced to a charge:
    - (a) In consultation with the Principal Clerk's office, that the recruit is given sufficient training on the law of the Church as it applies to ministry in the Presbytery of International Charges;
    - (b) In consultation with the Stewardship & Finance department, that the recruit is given sufficient training on matters of finance in the Church;
    - (c) In consultation with the Safeguarding Service, that the recruit undertakes appropriate training on Safeguarding rules and procedures to enable the recruit to work safely in the charge;
    - (d) In consultation with the Law Department, that the recruit is sufficiently briefed on matters of Church property law to enable the recruit competently to manage property matters arising in the charge; and
  - (3) That appropriate oversight over the recruit is exercised by the Presbytery.



## **II LOCAL MISSION CHURCH REGULATIONS (REGS II 2021)**

*Edinburgh 26 May 2021, Session 8*

### **Definitions**

1. In these Regulations:

- (a) The term “charge” shall have the meaning given to it in the Presbytery Mission Plan Act (Act VIII 2021);
- (b) “Leadership Team” shall mean those persons who have the responsibilities in relation to the Local Mission Church outlined in section 6;
- (c) “Presbytery” shall mean the presbytery of the bounds within which the Local Mission Church is located.

### **Local Mission Church**

2(1) A Local Mission Church shall be a Christian community whose purpose is to worship, witness and serve in a distinct geographical setting.

2(2) A Local Mission Church shall be established in terms of these Regulations and a Basis of Local Mission Church. The form of the Basis shall be prescribed from time to time by the Faith Nurture Forum after consultation with the Legal Questions Committee.

2(3) A Local Mission Church shall not own any property, heritable or moveable, or have any legal personality. It shall not have a Kirk Session and shall not have the right to call a minister. The creation or sustaining of a Local Mission Church is not dependent on the provision of a church building.

### **Creation of a Local Mission Church**

3. The process to create a Local Mission Church shall be as specified in the Guidance accompanying the Presbytery Mission Plan Act.

### **Role of Kirk Session of charge**

4. A Local Mission Church shall exist within the territorial boundaries of a charge. All legal and governance matters affecting the Local Mission Church shall be the responsibility of the Kirk Session of the charge. In particular, the Kirk Session shall:

- (a) ensure that all requirements of the law of the Church of Scotland and of civil law are fulfilled in relation to the Local Mission Church;
- (b) be the owner/title-holder of all property whether heritable or moveable, used by or within the possession of the Local Mission Church;
- (c) administer all offerings and other monies collected at or in relation to the Local Mission Church;
- (d) apply such monies in the first instance to meet the costs of the Local Mission Church for as long as it exists, after discussion with the Leadership Team, and thereafter as the Kirk Session determines.

### **Oversight by Presbytery**

5. A Local Mission Church shall be subject to the oversight of the Presbytery. In particular, a review of a Local Mission Church and its place in the Mission Plan shall be conducted by the Presbytery at least once every five years but without prejudice to annual evaluation and development of the Mission Plan.

### **Leadership Team**

6(1) A Local Mission Church shall have a Leadership Team as set out in the Basis and this Team shall include one or more representatives of each of the Kirk Session and the Presbytery.

6(2) The life and witness of the Local Mission Church shall be co-ordinated by its Leadership Team, subject to the oversight of the Kirk Session and the Presbytery. Without prejudice to this generality, the Leadership Team shall be responsible for:

- (a) developing appropriate expressions of worship, witness and service;

- (b) ensuring that the Local Mission Church is adequately organised;
- (c) ensuring good communication with the Kirk Session; and
- (d) assisting with the upkeep of buildings (if any), subject always to strict adherence to sections 7(a) and (b) below. Any contracts shall be entered into by the Kirk Session.

**Further provisions**

7. The following further provisions shall apply to a Local Mission Church:

- (a) Neither a Leadership Team nor any person acting on behalf of a Local Mission Church shall have any authority or power to enter into contracts or to incur liabilities on behalf of the Kirk Session.
- (b) Neither a Leadership Team nor any person acting on behalf of a Local Mission Church shall conduct themselves in such a way (including silence) that might cause an inference contrary to section 7(a) to be drawn by any person.

## **I CONGREGATIONAL CONTRIBUTIONS 'GIVING TO GROW' REGULATIONS (REGS I 2022) (AS AMENDED BY REGS III 2023)**

*Edinburgh, 21 May 2022, Session 3*

### **General**

1. All Congregations (with a registered charity number) within a Charge, with the exception of single Congregation Local Ecumenical Partnerships and Congregations within the Presbytery of International Charges, are required to make a Contribution in terms of these Regulations. For the avoidance of doubt, single Congregation Local Ecumenical Partnerships are required to make an equivalent Contribution in terms of Regulations I 2007. Congregations within the Presbytery of International Charges are required to contribute in terms of Regulations V 2016.
2. Each Congregation shall pay its required Contribution in ten or twelve equal monthly instalments during the financial year by bank standing order, unless permission is granted annually by Presbytery to allow payments to be made under some other arrangement. The Presbytery shall advise the Stewardship and Finance Department annually by Extract Minute of any such individual arrangements.
3. It shall be the responsibility of the Financial Board of each Congregation to inform the members of the Congregation of the required Contribution and the ways in which this Contribution enables the worship, mission and service of the Church.
4. Contributions shall be credited to the Church of Scotland General Fund. Any shortfalls in Contributions shall be borne by that Fund.
5. The Stewardship and Finance Department shall inform each Presbytery, on a monthly basis, of shortfalls in Contributions from Congregations within their bounds. They will also inform them of shortfalls, where applicable, in respect of reimbursement by Congregations of locum and ministers' travelling expenses, both for the latest financial year and any accumulated totals for previous years. Each Presbytery shall record all such shortfalls annually in the Minutes of the Presbytery and shall consult with the office-bearers of the Congregations concerned.

### **Process of determining Contributions**

6. To facilitate the process of calculating the required Contribution for each Congregation, Financial Boards shall be required to submit annually by 31 March to the Stewardship and Finance Department a copy of their Congregational Accounts for the previous financial year. Where the accounts of a Congregation have not been received by 30 June the Department shall be entitled to make an estimate of the income.
7. Where accounts are subsequently received this estimate will only be amended if materially different, as determined by the General Treasurer. Only the Contribution for the current year and subsequent years shall be amended.
8. The Stewardship and Finance Department shall provide to each Presbytery by 30 September each year a list of the proposed Contributions for Congregations within a Charge and the Income Base of each Charge within the bounds of that Presbytery for the following financial year.
9. By 15 November each year, each Presbytery shall (1) notify Congregations within their bounds, with the exception of single Congregation Local Ecumenical Partnerships, of their proposed Contributions for the following financial year; and (2) communicate this information by Extract Minute to the Stewardship and Finance Department.
10. Where a Congregation has shortfalls in the current year and previous years, any payment made will be allocated against the oldest debt first.

11. The Stewardship and Finance Department shall issue to Congregational Treasurers by 31 December each year confirmation of the required Contributions for the following financial year.

### **Income Base Assessment**

12. The required Contribution shall be calculated, based on each Charge's Income Base and the total Cost as defined below of all Minister(s) of Word and Sacrament allocated to that Charge. The "Cost of a Minister of Word and Sacrament" is the total of the gross salary at the maximum of the stipend scale, employer's national insurance contribution, employer's pension contribution, death in service benefit cost and cost of income protection. The Income Base is the sum of the assessable income of all of the Congregations within that Charge. The Stewardship and Finance Department shall determine and report annually the "Cost of a Minister of Word and Sacrament".
13. In determining Assessable Income for each Congregation, all of the following shall be included:
  - a) General Fund income;
  - b) Income specifically received to meet the cost of ministries (including, but not exclusively, glebe rents, Consolidated Stipend Fund income and local endowment income);
  - c) Fabric Fund and Reserve Fund income (including income in Fabric Funds held by the General Trustees);
  - d) Half of all gross income in excess of £10,000 received from outside agencies for the use of premises;
  - e) Income from a Local Mission Church for which the Charge has responsibility;
  - f) Wedding and funeral income (as disclosed as donations in the annual accounts);
  - g) Any other income which is available to meet the normal purposes of a parish church (which includes income held in restricted and designated funds);
  - h) Net income raised through giving online or through other digital means;
  - i) Net property rental income (including, but not exclusively, locally held manse, shop and garage);
  - j) Net café and charity shop income (which shall be understood as those funds which are transferred to the General Fund of the congregation);
  - k) Net income from telephone masts, electric vehicle charging points, renewable energy sources and all other similar commercial income;
  - l) Net visitor income to the congregations from historic buildings which are open to the public;
  - m) In respect only of items (h) – (l) inclusive, expenditure incurred wholly in the provision of the service generating the income may be deducted from gross income calculated from the sources in the preceding section. All expenditure must be disclosed in the annual accounts as relating to the income and be separately identifiable from other similar expenditure.
14. For the avoidance of doubt the following items (which, if applicable, must be disclosed in the accounts and separately identifiable) shall be **excluded** from the Income Base:
  - a) Legacies;
  - b) Proceeds from the sale of property or investments;



- c) Special collections for other charities;
  - d) Grant income;
  - e) Restricted income which cannot be used for normal purposes of a parish church, including funds raised specifically for building projects that fall out with normal fabric works and those raised for local mission posts and associated local mission programmes subject to 14. (f).
  - f) Funds raised exclusively for local mission posts and associated local mission programmes, provided that Ministry Here as defined under paragraph 16. (a) is met and that year on year the congregation maintains payment of their Ministry Elsewhere and Shared Activities contributions as defined under paragraphs 16. (b) and 16. (c) respectively.
15. Where the Income Base has been incorrectly calculated due to the Congregational Accounts not being fully compliant with the Regulations for Congregational Finance (Regs II 2016), only the income of the current year and previous year will be corrected, if material, as determined by the General Treasurer.

### **Calculation of the Giving to Grow Components**

16. The Contribution calculated for each Charge is the sum of the following three components:
- (a) Ministry Here: 50% of the Charge's Income Base, but not exceeding the Cost of the Minister(s) of Word and Sacrament allocated to that Charge. This allocation shall be based on the number of full-time equivalent posts of Minister(s) of Word and Sacrament allocated to that Charge as at 31 August in the year of calculation.
  - (b) Ministry Elsewhere: 35% of the income which is over and above twice the Cost of the Minister(s) of Word and Sacrament allocated to that Charge as at 31 August in the year of calculation. This component shall not exceed 1.5 times the Cost of the Minister(s) of Word and Sacrament allocated to that Charge.
  - (c) Shared Activities: 10% of the Charge's Income Base.
17. The total Contribution for the Charge shall be apportioned among each Congregation in the Charge on a pro-rata income basis, that is in proportion to the contribution of income each congregation makes to the total income of the Charge.
18. All income received from the Consolidated Stipend Fund or Glebe Rent Shall be deducted from the Congregation's Contribution.
19. If the Congregation's Contribution is calculated to be less than its stipend endowment income, the required Contribution shall be increased to equal the amount of the stipend endowment income.

### **Appeals**

20. The Governance Group of the Assembly Trustees shall appoint a Panel to adjudicate on any appeals from Congregations relating to the application of paragraphs 13 and 14 above. Appeals on any other grounds shall not be permitted. (Full details of the appeals process are available from the Church of Scotland website.)

### **Transition Funding**

21. The sum total of increases in Contributions for Congregations within a Presbytery between the last year of the previous Contribution system (2022) and that current year's requirement, will be made available as Transition Funding to Presbytery. This will be communicated when the list of proposed Contributions is issued to Presbytery. This funding will be available annually, for the first three years (i.e. in the years 2023 – 2025) of this Giving to Grow contribution system.

22. This transition funding may be used by the Presbytery to reduce the proposed Contributions for individual Congregations before these are finalised for the following year. This will be charged to the Church of Scotland General Fund.

### **Giving Agreements**

23. Presbyteries may increase the proposed Contributions for individual Congregations where they deem that there is considerable potential for increased giving by completing a 'Giving Agreement' with the trustees of the Congregation which will indicate the agreed Contributions for the following financial year. As per paragraph 9, Presbyteries shall communicate by Extract Minute the required Contributions for Congregations within their bounds subject to application of a Giving Agreement for the following financial year to the Stewardship and Finance Department not later than 15 November each year. Any agreed increase in the proposed Contribution can be used either by Presbytery or Nationally to fund initiatives, as determined by the congregation entering into the Agreement.
24. Agreed Additional Giving increases to fund National initiatives will be included in the Confirmation of the required Contributions for the following financial year issued by the Stewardship and Finance Department by 31 December each year. The monies will be credited to the Church of Scotland General Fund.
25. Where the Agreed Additional Giving is to fund Presbytery initiatives, a separate invoice will be issued by the Presbytery concerned. The monies will be credited to Presbytery Funds.

### **Miscellaneous**

26. Where a Charge has a ministerial vacancy, an allowance within limits determined by the Faith Action Programme Leadership Team shall be given towards extra costs incurred for locum provision during the vacancy. This allowance will be deducted from the Charge's Contribution and charged to the Church of Scotland General Fund.
27. Where a Charge is in Guardianship, an allowance, within limits determined by the Faith Action Programme Leadership Team, shall be given towards extra costs incurred for locum provision during the Guardianship. This allowance will be deducted from the Charge's Contribution.
28. Where a Congregation undergoes a form of adjustment (e.g. union) the Contribution due will be recalculated from the effective date of the adjustment.
29. Where an adjustment results in a significant reduction in Charge income, the General Treasurer may apply a decrease to the Contribution.
30. These Regulations will be subject to annual review by the General Assembly, in accordance with proposals submitted by the Assembly Trustees.

### **Definitions**

31.
  - a) A "Financial Board" shall mean shall mean the body responsible for managing the finances of a congregation, e.g. Kirk Session, Congregational Board, Deacons' Court, Committee of Management, etc.;
  - b) A "Local Mission Church" shall be a Christian community whose purpose is to worship, witness and serve in a distinct geographical setting, established in terms of the Local Mission Church Regulations (Regs II 2021);
  - c) A "Charge" shall have the meaning given to it in the Presbytery Mission Plan Act (Act VIII 2021);
  - d) "outside agencies" shall mean those which are an independent body to the

congregation and not an extension of the life of the church;

- e) "Shortfalls" shall mean unpaid Contributions, including any contributions outstanding under the Ministries and Mission Contributions Regulations (Regs I 2012).



#### **IV 'SEEDS for GROWTH' FUND REGULATIONS (REGS IV 2022) (AS AMENDED BY REGS IV 2023)**

*Edinburgh, 23 May 2022, Session 6*

1. The Church of Scotland *Seeds for Growth Fund* ("the Fund") shall be established from 1 January 2023.
2. Responsibility for the Fund shall rest with the Assembly Trustees who act as the Trustees of the Unincorporated Entities Scottish Charity Number 011353 ("The Trustees"). The Trustees may establish a body to oversee the Fund on their behalf.
3. The purposes of the Fund are to support the numerical and spiritual growth of existing Church of Scotland congregations and of new Church of Scotland worshipping communities through (i) the planting of new worshipping communities; (ii) work focused on the development of new forms and fresh expressions of church life; (iii) creative engagement with all sectors of society in particular with those aged 40 and under, in every case promoting the advancement of religion and the overarching purpose of the numerical and spiritual growth of the Church; and (iv) The enablement of community transformation motivated by Christian service. In the initial three years (2023 – 2026) the Fund shall prioritise the support of: (i) the planting of new worshipping communities and (ii) work with people aged 40 and under.
4. The Fund shall operate for a 7-year period until 31st December 2029. A review conducted by the Trustees shall take place after the first three years of operation and shall measure the success of the Fund against previously agreed criteria to determine future direction and investment.
5. The Fund shall replace the *Go For It* Fund. Administration of grants already awarded out of the *Go For It* Fund shall become the responsibility of the Fund. Monies already committed in the *Go For It* Fund at 31 December 2019 shall be transferred to the Fund.
6. An application to the Fund may be made by a Presbytery or a group of Presbyteries.
7. Applicants to the Fund should be able to show that they have worked diligently to: (i) raise funds from local sources (including the Presbytery/ies and congregation(s) making or involved in the application); and, (ii) raise funds from appropriate external sources. Funding, up to 100%, will not necessarily be contingent on funding being provided by any other body.
8. The Trustees shall provide core funding from the unrestricted funds held on behalf of the Unincorporated Entities. This money shall cover both grants to be paid from the Fund and the administration of the Fund.
9. The Fund may be supplemented by other funds raised within and beyond the Church.
10. The Terms of Reference for use of the Fund set out in the Schedule below shall be developed and monitored by the Trustees and any amendments shall be approved by the General Assembly as part of the annual reporting on the operation of the Fund. The Trustees may also fund grants from restricted funds held by the Unincorporated Entities if the purpose is consistent with donor restrictions.
11. The Trustees shall be responsible for monitoring the ongoing effectiveness of the Fund. The Trustees shall report annually on the work of the Fund to the General

Assembly with a focus on how the Fund is achieving its primary aims as set out in section 3 of these Regulations.

## **SCHEDULE**

The *Seeds for Growth Fund* Implementation Group Terms of Reference

### Committee

1. The Seeds for Growth Fund Implementation Group (the “Committee”) is a Committee of the Assembly Trustees.
2. The purpose for which the Committee is established is to oversee the operation of the Seeds for Growth Fund on behalf of the Assembly Trustees. In carrying out those duties the Committee shall adhere to the relevant Regulations issued by the General Assembly and to the guidelines, criteria and governance requirements approved by the Assembly Trustees.
3. The size of individual grants, guidelines, criteria and governance requirements shall be reviewed annually by the Assembly Trustees in consultation with the Committee. Grants in excess of £75,000.00 shall require individual approval by the Assembly Trustees.

### Purpose

- (a) the purpose of the Fund is to seek the numerical and spiritual growth of existing Church of Scotland congregations and of new Church of Scotland worshipping communities through:
  - (i) the planting of new worshipping communities;
  - (ii) work focussed on the development of new forms and fresh expressions of church life; and
  - (iii) creative engagement with all sectors of society in particular with those aged 40 and under; and
  - (iv) the enablement of community transformation motivated by Christian service.
- (b) the Committee shall, in all its determinations, promote the advancement of religion and the overarching purpose of the numerical and spiritual growth of the Church.

### Criteria

The Committee shall assess applications in accordance with the following criteria.

1. Applications must come from Presbyteries or groups of Presbyteries. Collaboration with other partners, specifically including ecumenical co-operation, will be encouraged where such collaboration furthers either numerical or spiritual growth within the Church or community transformation motivated by Christian service.
2. Applications must demonstrate a visionary approach to church growth, church planting and pioneer mission and must set out the anticipated effect of the project at a congregational or Presbytery level and include a clear plan and measurable targets.
3. Applications must provide a realistic assessment of how the project will continue beyond the period of funding and whether it will generate growth elsewhere within the Church.
4. Applications must include means of developing and sharing related experiences and good practice across the Church.
5. Applications must be focused on a defined project.
6. Applications will be assessed in accordance with the following prioritisation:

- Developing mission through new ecclesial communities and church planting
- Engaging in intergenerational approaches to and participation in worship

### Governance

1. The operation of the Seeds for Growth Fund shall be overseen by a Committee of nine persons, two of whom will be Assembly Trustees. The other members shall be appointed by the Assembly Trustees working in collaboration with the Nomination Committee. Members so appointed shall serve a three-year term, renewable unless otherwise determined by the Assembly Trustees. Of those first appointed, four shall serve three years renewable and three shall serve two years, renewable for a three-year term. Trustee members shall serve during their appointed term as an Assembly Trustee.

2. The Committee shall meet at least five times per year to consider strategy and applications. On special cause shown the Committee may consider an application outwith those times; but in so doing the Committee must determine both that there is an urgency as to the application which requires a special meeting and also that the application is of such importance that to consider it without comparison with other applications would not improperly disadvantage such potential applications.

3. In carrying out their duties the Committee will engage with applicants through regional teams and carry out the process of assessment with local Presbytery representatives. The Committee shall have the ability to co-opt additional non-voting members who hold requisite expertise in certain areas onto the Committee as required.

4. A quorum of the Committee shall be five, whether attending in person or by electronic means. One attendee must be an Assembly Trustee and one must be the Convener or another trustee specifically nominated by the Convener for the purpose of the meeting in question. If meeting by electronic means, the Committee shall comply in all respects with the provisions of GA Act VI 2018 (Virtual Attendance at Meetings Act).

5. Grants of £1,000 and below can be awarded at the discretion of the Grants Manager. Any such grants awarded will be presented for information to the next meeting of the Committee.

6. The Committee shall maintain Minutes of their meetings, duly approved by all members attending within two weeks of the meeting. The Minutes shall include a full account of the work of the regional “team” with a synopsis of all applications received and the reasoning for recommendations made to the Committee.

7. In respect that the Assembly Trustees are the Charity Trustees for the assets to be used by the Seeds for Growth Fund:

- (i) the Minutes of meetings of the Committee shall be sent to the Assembly Trustees within one month of the meeting
- (ii) in carrying out their duties the Committee shall submit quarterly reports to the Assembly Trustees as to their administration of the assets of the Fund and any proposed strategy for future operation, such report to be in terms of a template to be provided by the Assembly Trustees
- (iii) the Committee shall maintain such accounts as the Assembly Trustees require
- (iv) the work of the Committee in considering and granting applications shall be carried out in accordance with a budgetary framework, agreed with the Assembly Trustees and
- (v) any liability arising out of the acting of a Committee member in good faith shall be borne as if the acting of an Assembly Trustee.