

II. REGULATIONS ANENT PROCEEDS OF SALE OF HERITABLE PROPERTIES (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.