

LEGAL QUESTIONS COMMITTEE MAY 2025

Proposed Deliverance**The General Assembly:**

1. Receive the Report.
2. Adopt the new Standing Orders set out in Appendix B of the Report of the Assembly Business Committee (*Section 2*).
3. Pass the Presbytery Review Act as set out in Appendix A to this Report (*Section 3*).
4. Pass an Act amending the Discipline Act (Act I 2019), as amended, as set out in Appendix B to this Report (*Section 5*).
5. Pass an Act amending the Registration of Ministries Act (Act II 2017) as set out in Appendix C to this Report (*Section 5*).
6. Pass the Communion Rolls and Adherents' Rolls Act as set out in Appendix D to this Report (*Section 6*).
7. Pass an Act amending the Sacraments Act as set out in Appendix E to this Report (*Section 6*).
8. Instruct the Legal Questions Committee and the Theological Forum, in consultation with other parties as required, to review the Ministers and Deacons in Same Sex Civil Partnerships and Same Sex Marriages Act (Act I 2015) in the terms set out in the Report, and to report to a future General Assembly (*Section 8*).
9. Pass an Act amending the Commission of Assembly Act (Act VI 1997) as set out in Appendix F to this Report (*Section 9*).
10. Pass an Act amending the Church Courts Act (Act VI 2023) as set out in Appendix G to this Report (*Section 10*).

Report**1. THE COMMITTEE'S REMIT****1.1** This is to: -

- advise on legal questions, whether of Church or civil law, referred to it by the General Assembly, by the Principal Clerk or by any agency of the General Assembly;
- assist in formulating responses to consultations opened by the Scottish and UK Governments and other bodies;
- provide the legislative drafting service for agencies of the General Assembly;
- advise on reform to Church law in terms of practice and procedure;
- report to the General Assembly on proposed amendments to Standing Orders; and
- inspect annually records of Agencies of the General Assembly.

1.2 In accordance with the sixth bullet point, members of the Committee examined the minutes of Assembly Standing Committees for the year 2024 on 20 February 2025. In general, these were found to be acceptable and any shortcomings were drawn to the attention of the Committee concerned. The Committee felt that there was a general improvement in the format and accuracy of the minutes presented to it this year, and was encouraged to see this.

2. NEW STANDING ORDERS

2.1 The Report of the Assembly Business Committee sets out the work that has taken place on reordering, updating and clarifying Standing Orders, such that the Assembly is asked to adopt new Standing Orders.

2.2 As required by Standing Order 128 and the Committee's remit, the accompanying section of deliverance is set out at item 2 of this Committee's Proposed Deliverance.

3. PRESBYTERY REVIEW

3.1 Following comments received from Presbyteries, and in the light of experience shared by the Presbytery Review Committee, the Committee has prepared a final form of the Presbytery Review Act (attached as Appendix A).

3.2 The final form of the Act does not represent a major departure from the draft Act received by the General Assembly of 2024, with only a few amendments, mainly of a tidying up nature, having been made. A substantive change is that the Act now applies only to Presbyteries within Scotland. It is anticipated that Presbyteries furth of Scotland will be brought within the scope of the Act in due course, but more time is needed to develop a system of Presbytery Review and inspection of records which is appropriate for the particular needs of those Presbyteries.

3.3 Among the comments received from Presbyteries and congregations was an acknowledgement that Presbytery Review is a key part of good governance in a Presbyterian system, allowing Presbyteries to have the accountability and support that congregations have through Local Church Review (and are proposed to have in future through Mission Action Plans). There were a number of comments from Presbyteries expressing concern about the burden of time, energy and focus that would be involved in Presbytery Review, and the Committee is mindful of the need not to add unnecessarily to the work of already busy Presbyteries. However, the Presbytery Review Committee has confirmed that the pilots demonstrated support for Presbytery Review from the Presbyteries involved, who found the process of review to be encouraging, supportive and a helpful way to assist the Presbytery in reflecting on new ways of working. It is hoped that Presbytery Review will be similarly helpful to other Presbyteries as the process unfolds and will result in the sharing of good practice within the wider Church.

3.4. The Guidance referred to in the Act will be prepared by the Committee as soon as possible and will thereafter be kept updated by the Presbytery Review Committee with the approval of the Committee. This will provide flexibility for matters of practice to be set out in Guidance as Presbytery Review continues to develop. The Guidance will also contain the latest versions of the Proforma documents which were first developed during the pilot Presbytery Reviews and inspection of records carried out by the Presbytery Review Committee during 2024-25, namely a Presbytery Questionnaire, Congregational Questionnaire and Inspection of Records Documents List.

4. CHURCH COURTS ACT GUIDANCE

4.1 Work has been ongoing as to producing Guidance on the Church Courts Act. It is being written with Session Clerks in mind, but will be useful for the Kirk Session as a whole, and for members and staff of Presbyteries in their oversight of congregations. The Guidance will go through each section of the Act, but it does not set out to provide an academic treatment of the Act or to cover every question that may arise. However, we hope that it will provide helpful information on practice and procedure in relation to some common areas encountered.

4.2 It is hoped that the Guidance will be available by May 2025.

5. REVIEW OF THE COMPLAINTS PROCESS AND THE DISCIPLINE PROCEDURE

5.1 At the General Assembly of 2023, the Committee received a remit to review the Complaints Procedure:

Instruct the Committee collaboratively to review the Complaints process, seeking views of Presbyteries and congregations to find ways of alleviating the stress, strain and hurt of those involved in the process and report to the General Assembly of 2025.

5.2 The Complaints Procedure is set out on the Church website (<https://www.churchofscotland.org.uk/contact/complaints>). The Committee took this remit to apply to the section dealing with complaints against ministers, deacons or office bearers, to include Ministers of Word and Sacrament, Ordained Local Ministers, deacons, elders and readers. The Committee decided in parallel to undertake a review of the Discipline Act. Work on both fronts was delegated to a sub-group.

5.3 The matter has been discussed with Presbytery Clerks, and the sub-group has received and considered various representations about Censures under the Discipline Act.

Complaints Procedure

5.4 It was noted that currently, although the Office of the General Assembly along with the Solicitor will readily respond to requests for advice from Presbytery Clerks who are dealing with complaints, there is no comprehensive Guidance document available. Significant work has been undertaken to prepare a Guidance document, which will be for the benefit of Presbytery Clerks and members of Complaints Committees in operating the Complaints Procedure. This covers topics such as:

- Deciding on whether the matter is for the Complaints Procedure or Discipline process
- Confidentiality
- Presbytery appointments required for the Complaints Procedure to be operated
- Detailed Guidance around the Procedure itself, including dealing with anonymous complaints, accompaniment for the person complained about, and possible outcomes of the Procedure.

5.5 It is hoped that this will go some way towards equipping those carrying out the process to do so timeously, compassionately and professionally.

5.6 There is annexed to the Guidance a template Investigation Report which a Complaints Committee can use. The sub-group plan to add an Investigation Plan. The Committee hopes that this Guidance will bring together knowledge and expertise built up over several years and that it will prove useful to those involved in operating the Complaints Procedure.

Discipline Act process

5.7 After careful consideration, the sub-group proposes two amending Acts to address different aspects of the Act. The first amends section 40 (Censures) and section 47 (Implementation of decision/Censure at Presbytery).

5.8 The Censures available to the Discipline Tribunal have been expanded:

- They now include a Discharge, where despite a finding that there has been misconduct on the part of the Respondent, the Tribunal considers that in all the circumstances there is no merit in imposing a penalty. A Discharge may be absolute or subject to condition(s).
- Another new option is a final written warning, with specification of the required improvement in conduct/performance and the applicable timescale. It is anticipated that the HR department in the national offices may need to provide assistance if such a Censure is imposed.
- A distinction has been drawn between a fixed period suspension, which will be a suspension for a period not exceeding three months, and a suspension without limit of time (though subject to a minimum period). For the fixed period suspension, it is clarified that here, the pastoral tie shall not be broken but payment of stipend and other benefits shall be suspended for the fixed period. Upon expiry of the fixed period the suspension shall automatically be lifted. In contrast, a suspension without limit of time will result in severance of the pastoral tie (and thus of course cessation of stipend and other benefits). This type of suspension will only be able to be lifted following an application to the Registration of Ministries Committee.

5.9 Consequentially, amendments are also proposed to the Registration of Ministries Act to align it with the new provisions on suspension, and to provide that the Secretary to the Discipline Tribunal will be invited to comment upon an application for return from a suspension without limit of time.

Complaints against Presbytery Committees and Presbytery Clerks

5.10 The Committee also received a remit from the Assembly of 2024:

Instruct the Committee to develop a process for dealing with complaints made against a Presbytery committee and a bespoke process for a complaint against a Presbytery Clerk and to report to the General Assembly of 2025.

5.11 The Guidance on the Complaints Procedure addresses the matter of complaints against Presbytery Clerks. A process for dealing with complaints made against a Presbytery Committee is in course of development at the time of writing and will be made available on the Church website when finalised.

6. NEW COMMUNION ROLLS AND ADHERENTS' ROLLS ACT

6.1 The Committee has prepared a replacement of the Communion Rolls Act. This was initially generated by concerns to conform this part of Church law with current Data Protection legislation, but as work progressed, it became apparent that the replacement Act could also reflect streamlining benefits arising from the drafting of the new Vacancy Act: the Call, Election & Appointment of Ministers of Word and Sacrament Act, which is to be proposed to this Assembly by the Faith Action Programme Leadership Team (FAPLT).

6.2 Thus the new Act provides for two Rolls to be kept: one of communicant members and one of adherents, with the Supplementary Roll being phased out for Data Protection law reasons, as the keeping of data in case it might be useful in future is no longer legal. However, transitional provisions for a Supplementary Roll are included. The two Rolls which are to be kept will be utilised for the purposes of the Electoral Register under the new Call, Election & Appointment of Ministers of Word and Sacrament Act. Provisions in the existing Act which were more appropriate to the Sacraments Act are being moved there (see the amending Act found in the FAPLT Report).

6.3 A proposed new Act appears at Appendix D. There is also a consequential change to the Sacraments Act, involving the moving to that Act of wording which currently appears in the existing Communion Rolls Act, but which the Committee felt would be more suitably located in the Sacraments Act. This amending Act is found in Appendix E.

7. REQUESTS FOR REVIEW AND FOR ASSISTANCE UNDER THE PRESBYTERY MISSION PLAN ACT (ACT VIII 2021)

7.1 The Office of the General Assembly continues to process requests for review received from Kirk Sessions, in relation to Presbytery Mission Plan decisions. As noted last year, the Act provides for a review of the process used by the Presbytery in preparing and approving a Mission Plan, not an appeal of the decision made, and thus it does not substitute a different decision; rather it looks at how the decision was taken. A decision to uphold a request for review means that the Presbytery then reruns the process of taking the decision on the relevant part of the Mission Plan. The decision from the rerun of process could be the same as per the existing Plan or it could be different.

7.2 The grounds upon which a review may be requested relate to errors in Church law, material irregularities of process, or the taking into account of an irrelevant material fact or failure to take into account a relevant material fact. Before a review can proceed, the Act provides for the Committee on Overtures and Cases (consisting of the Procurator, the Solicitor and the Assembly Clerks) to give leave to proceed.

7.3 At the time of writing, there have been 47 requests for review across 22 Presbyteries in relation to Mission Plans; these include 2 requests following on from annual evaluation and development of a Mission Plan, 1 request following a mid-year change to a Mission Plan and 2 requests in addition from Presbyteries for assistance under section 2.2.4 of the Act. The vast majority of these requests have been processed; however they do continue to arise, and some are currently pending decision.

7.4 The Committee remains grateful to the members of the Mission Plan Review Group who carry out this difficult, sensitive and laborious work with diligence and care.

7.5 One Mission Plan (for the Presbytery of Lewis) is not yet in place. This Presbytery has requested assistance under section 2.2.4 of the Act and this is ongoing.

8. ACT I 2015

8.1 Amendments were made to Act I 2015 ("the Act") at the General Assembly of 2023; however the Committee is aware of further issues which arise in relation to it.

8.2 The Committee has been approached about a specific situation which was perceived locally to operate unfairly. This involved votes under Act I 2015 in the two Kirk Sessions of a deferred union. In terms of the Act, with such Kirk Sessions operating the Act's procedure as currently drafted, the effect is that each has a veto on "departing" (section 3(8)). If in practice (as was the case in the specific example), one of those Sessions is much larger than the other, the possibility exists, on votes being taken under the Act, that the larger Session is outvoted and thus constrained in its choice of minister by a much smaller Session. So in the situation which was raised with the Committee, this provision operated (correctly, according to the terms of the Act) to prevent the larger congregation from calling a minister in a same sex union even although that person may never become the minister of the united charge and even although the larger Session had in fact voted to depart. Similar issues could arise in linkings.

8.3 The Committee has also received representations about how Team Ministry interacts with the Act. In 2023 the Assembly agreed that in the case of Team Ministry (section 3(8)(c)):

“a decision to depart or not to depart, once taken, shall apply to all other posts within the Team Ministry as and when such posts become vacant for the following five years, unless there is a request at an earlier date for the matter to be revisited and a new vote held. Such a request must be signed by a majority of the ruling elders on the Kirk Session, or where the ruling Elders exceed nine in number, at least one-third with a minimum of five”.

8.4 This provision was put in place to avoid multiple votes on the same question taking place within a Team Ministry charge, possibly in quick succession. Underlying this are difficult situations: for example if a charge voted to depart, a Team Minister in a same sex union was appointed, and then the charge voted differently on a new appointment within the Team becoming available, this would leave the Team Minister already in post in a very awkward situation. It was recognised at the time that this provision was a “stop-gap” solution as the question remains about what happens after five years to any Team Minister in a same sex union who is already in situ in a charge which could later decide not to depart.

8.5 The Committee also wishes to note a further point about the intentional effect of Act I 2015. The strict terms of the Act permit departure from the historic position of the Church, ie a traditional position, only in the very limited circumstances set out in section 2(3), i.e. only in a parish ministry context (and to a limited extent by a Presbytery in appointing Interim Moderators in terms of section 4A). There is no mechanism *in Church law* to enable ‘departure’ to facilitate appointments of a minister or deacon who is in a same sex union to a role at Presbytery or Assembly level, e.g. nomination as Moderator of the General Assembly or of a Presbytery. However, *in practice*, across the Church, leadership is exercised in non-parish roles (for instance in Presbytery and Assembly Committees) by persons in same sex unions. This divergence between law and practice may give rise to questions about the doctrinal statements in the Act.

8.6 In light of these considerations, the Committee seeks to ascertain the mind of the Assembly on whether or not a review of the Act should be undertaken in relation to these matters, with a report to a future General Assembly. If the Assembly decides that a review should proceed, the points in 8.5 would be passed to the Theological Forum, with the Committee starting work on the matters referred to in 8.2 to 8.4.

9. AMENDMENT TO THE COMMISSION OF ASSEMBLY ACT

9.1 The Committee is aware that the Faith Action Programme Leadership Team, through its People & Training Programme Group, wishes to put in place new legislation on Initial Ministerial Education. However, the timing of this complex process means that it will not be possible for legislation to be drafted in time to be approved by this General Assembly. It is therefore proposed that this General Assembly approve principles for the Act, with the detailed legislation coming to a Commission of Assembly in Autumn 2025.

9.2 The current section 9 of the Commission of Assembly Act (Act VI 1997) arguably constrains this way of proceeding. The Committee was approached and has suggested that the Act might be amended to allow a Commission to legislate in specific circumstances: where a General Assembly has approved a set of principles for the proposed legislation and that Assembly specifically instructs that a Commission of Assembly shall be held within the following twelve months to consider and potentially approve the terms of the detailed legislation, drafted in accordance with those principles. The Committee does not think it wise for a Commission to have an unfettered power to legislate. A draft amending Act appears in Appendix F.

10. AMENDMENTS TO THE CHURCH COURTS ACT

10.1 In terms of the existing provisions of the Church Courts Act, certain chaplains, professors and lecturers are obliged to be a member of the Presbytery where they work. Amendments are proposed to allow them to choose to be a member of the Presbytery where their congregation is, or where they live.

10.2 An amendment is also proposed for the situation of a Team Ministry. This is to ensure that in this case, the Kirk Session is fairly represented at Presbytery by representative elders. In a Team Ministry there could be 2 or 3 Team Ministers but according to the present terms of the Act, only 1 representative elder. The amendment will equalise the number of representative elders with the number of Team Ministers.

10.3 A draft amending Act appears at Appendix G.

11. CHURCH OF SCOTLAND GOVERNANCE: THE UNDERLYING PRINCIPLES

11.1 The Committee is pleased to endorse a project for which its Convener has volunteered: to write an introductory volume under the working title *“Church of Scotland Governance: The Underlying Principles”*. This would be a text which could be supplied, for example, to a new elder to help them understand the polity of the Church.

11.2 The intention with this text is not that it would be a Church law textbook, but rather that it would set out basic principles of church polity which the reader is to uphold. In terms of information about *“how to”* do anything, the intention would still be that other material on the Church’s website would fulfil that purpose. Its focus will therefore be very different from previous Church law texts.

11.3 This volume will be published on a no-profit basis through Amazon, in the name of Marjory A MacLean. She will be doing so with the support and grateful thanks of the Committee.

In the name of the Committee

MARJORY MACLEAN, *Convener*
KATHERINE TAYLOR, *Vice-Convener*
FIONA SMITH, *Secretary*

Appendix A

PRESBYTERY REVIEW ACT

Edinburgh, [] May 2025, Session []

In requiring Presbytery Review, the General Assembly seeks (1) to further the mission of the Church of Scotland by ensuring the good governance and oversight of congregations within the bounds of each Presbytery and by facilitating the sharing of good practice throughout the Church and (2) to fulfil the terms of the Church Courts Act (*section 22.2*), which states that the General Assembly shall exercise powers of oversight of Presbyteries and these may be exercised generally, or as specified in legislation.

Accordingly, the General Assembly hereby enact and ordain:

1. DEFINITIONS

- a) the "Aims" shall mean:
 - (i) to encourage and enable a Presbytery to reflect on its life and work;
 - (ii) to assess whether a Presbytery is satisfactorily fulfilling its Functions and Responsibilities;
 - (iii) to enable action to be taken when in the life of a Presbytery there is conflict or when there are issues of non-compliance with the Functions and Responsibilities;
 - (iv) to give the opportunity for the leadership and the wider membership of the Presbytery as a whole to challenge one another as to the effectiveness or otherwise of the Presbytery's structures and the functioning of them;
 - (v) to hear of and celebrate good practice by Presbyteries and share such with the wider Church; and
 - (vi) to assist with the co-ordination of the central resourcing of the wider Church.
- b) the "Committee" shall mean the Presbytery Review Committee, a Standing Committee of the General Assembly, comprising a Convener, Vice-Convener and eleven members nominated by the Nomination Committee and appointed by the General Assembly, together with *ex officio* the Principal Clerk and the Depute Clerk. In making nominations to the Committee, the Nomination Committee shall seek to ensure a balance of ministers, elders and members on the Committee, and also shall aim for geographical balance. Membership of the Committee shall include persons with considerable experience of Presbytery life, of Church life, of regulatory functions, of charity governance, of Church law, practice and procedure and of the operation of Church courts. Appointments shall be for a three year term with some initial appointments being of shorter terms to stagger those stepping down from the Committee in future years. No current employee of a Presbytery shall be a member of the Committee or co-opted onto a Review Group.
- c) "Functions and Responsibilities" shall mean the Functions and Responsibilities of a Presbytery set out in section 10 of the Church Courts Act (Act VI 2023).
- d) "Presbytery Review" shall mean the process of review of a Presbytery by the Committee as set out in this Act, in addition to the annual inspection of records referred to in section 4, and "Review" and "Reviewed" shall be construed accordingly.
- e) "Review Group" shall mean the Review Group appointed under section 3.3.
- f) "Review Report" shall mean the Review Report referred to and the contents of which are described in section 6.1.
- g) "Summary Report" shall mean the Summary Report described in section 6.4.

2. PRESBYTERY REVIEW

2.1 Each Presbytery shall be subject to Presbytery Review, to achieve the Aims, according to a schedule of visits determined by the Committee.

2.2 Presbyteries shall participate and cooperate in Presbytery Review (*Church Courts Act (Act VI 2023), sections 10.1.14 and 15.5*).

2.3 A Presbytery shall normally be subject to Review once every five years but a Review may be delayed or brought forward or an extra Review may be conducted, as the Committee sees fit, where the Committee is concerned that a Presbytery may not be fulfilling its Functions and Responsibilities.

3. THE COMMITTEE'S ROLE

3.1 Responsibility for Presbytery Review is delegated by the General Assembly to the Committee. The Committee shall be clerked by the Office of the General Assembly.

3.2 The role of the Committee is to be satisfied:-

- that each Presbytery Review is thorough and forward looking;
- that key points (a Summary Report) of the Review Report are shared with the General Assembly;

and in particular that:

- good practice is highlighted and shared across the Church;
- problems are faced and tackled with appropriate support and input; and
- non-compliance is addressed and rectified.

3.3 The Committee shall appoint a Review Group of at least three persons to act on its behalf when embarking on the Review of a Presbytery. None shall be members of the Presbytery under Review. The Review Group may consist wholly of members of the Committee, or it shall be competent for the Committee to co-opt suitably qualified individual(s) from outwith its membership to be part of particular Review Groups, provided that there shall be no more than one co-opted member per Review Group.

3.4 Members of the Committee must adhere to the conflict of interest policy, bribery and procurement policy and whistleblowing policy put in place in terms of those recommended by the Law Department, and as specified in Guidance.

4. ANNUAL INSPECTION OF RECORDS

4.1 Each Presbytery shall submit annually to the Committee for examination the rolls and records of the Presbytery and shall also submit for attestation by the Committee the trustees' report and annual accounts of the Presbytery.

4.2 The Committee shall report annually to the General Assembly on this inspection of all Presbyteries' records.

5. DOCUMENTS AND VISITS/MEETINGS FOR PRESBYTERY REVIEW

5.1 When a Presbytery is to be Reviewed, on a *proforma* devised by the Committee, the Presbytery will be asked to provide:

- factual and statistical information to allow the Review Group to grasp something of the geography and demographics of the area;
- confirmation that specific requirements laid upon it by Church and civil law have been complied with;
- a description of the life and work of the Presbytery in terms of the Functions and Responsibilities, including the ways in which it resources local congregations, acts as the voice of the Church in relation to wider society, and engages with the processes of the General Assembly;
- an outline of the shared vision and guiding principles for the way ahead in the life and work of the Presbytery leading into as detailed as possible an anticipation of what lies ahead and how the Presbytery hopes to meet the specific challenges it faces; and
- any other documents and information as the Review Group may reasonably require in order to carry out the Review properly and effectively.

5.2 On such visits and meetings as they may consider relevant and over such timescale as may be required, the Review Group will enter into conversation with groups and individuals at Presbytery, and also at local and national level, all as it thinks fit, taking account of recommendations in the Guidance. Such discussions shall explore further any aspects of the life and work of the Presbytery in order to learn more about work that is going well or where there may be problems, and to help develop the framework for forward planning.

6. PREPARATION OF A PRESBYTERY REVIEW REPORT

6.1 Having received the documentation and carried out the visits and meetings referred to in section 5, the Review Group shall prepare a written Review Report according to a *proforma* set up by the Committee, which shall include the following:-

- a description of the activities of Presbytery at the time of the Review, giving an indication of priorities, why these were chosen, and how these were implemented, as well as its spiritual life, governance, Committee structure, staffing and how collective decision-making is working in practice;
- the identification of good practice and of areas of work in need of development;
- an outline of any future plans for altering the patterns of Presbytery life and why these changes are envisaged;
- an assessment of whether the Presbytery is satisfactorily fulfilling its Functions and Responsibilities; and
- any other matters which may seem relevant to the Review Group.

6.2 The initial draft of the Review Report shall be submitted to the Presbytery and an opportunity given to submit comments to the Review Group if desired.

6.3 The Review Group shall then finalise the Review Report and present it to the Committee.

6.4 The Committee shall consider the Review Report and shall ensure that key points including those sharing good practice and making recommendations, are reported in a written Summary Report to the General Assembly. The Presbytery shall be entitled to ask that comments from the Presbytery are included as an Appendix to the Summary Report.

6.5 The Committee's Summary Report for the General Assembly shall be submitted to the Principal Clerk no later than 1st March each year.

6.6 The Committee's Summary Report may make recommendations as to good practice, and may include a proposed deliverance with instructions to a Presbytery or Presbyteries.

7. TERRITORIAL EXTENT

7.1 This Act extends to all Presbyteries of the Church, excluding those furth of Scotland.

8. GUIDANCE

8.1 Detailed guidance ("the Guidance") for the conduct of Presbytery Review shall be produced initially by the Legal Questions Committee and thereafter the Guidance shall be updated by the Committee in the light of experience and changing circumstances, subject to approval by the Legal Questions Committee.

Appendix B

[] ACT AMENDING THE DISCIPLINE ACT (ACT I 2019) (AS AMENDED)

Edinburgh, [] May 2025, Session []

The General Assembly hereby enact and ordain that the Discipline Act (Act I 2019), as amended, shall be further amended as follows:

1. *Delete the existing section 16(15) and substitute:*
 “in terms of section 40 of this Act, failure to abide by condition(s) attached to a Discharge, disobedience of an Instruction or failure to achieve the required improvement within the timescale specified in a Final written warning.”
2. *Delete the existing section 40 and substitute:*
 “40. The Censures available to the Tribunal, in respect of any Respondent, shall comprise the following or any combination thereof:
 - (1) Ministers of Word and Sacrament and Deacons
 - (i) **Discharge**, where despite a finding that there has been misconduct on the part of the Respondent, the Tribunal considers that in all the circumstances (including the nature of the misconduct and the Respondent’s overall character and response to the disciplinary process) there is no merit in imposing a penalty. A discharge may be absolute or subject to condition(s). Such discharge shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart, and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
 Failure to abide by condition(s) attached to a Discharge shall constitute a Disciplinary Offence.
 - (ii) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart, and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
 - (iii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart; and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
 Disobedience of an Instruction shall constitute a Disciplinary Offence.
 - (iv) **Final written warning** with specification of the required improvement in conduct/performance and the applicable timescale. Such warning shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart; and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
 Failure to achieve the required improvement within the timescale specified in the warning shall constitute a Disciplinary Offence.
 - (v) **Fixed period suspension:** suspension from the status and functions of ministry for a specified period not exceeding three months. The pastoral tie shall not be broken but payment of stipend and other benefits shall be suspended for the fixed period and the Respondent shall be re-categorised to Category S in the Register of Ministry. Such suspension shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart; and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
 Upon expiry of the specified fixed period, the suspension shall automatically be lifted, payment of stipend and other benefits shall resume and the Respondent shall automatically be re-categorised back to the same category in the Register of Ministry as the Respondent had prior to suspension.
 - (vi) **Suspension without limit of time but subject to a minimum period:** suspension from the status and functions of ministry without limit of time, but subject to a minimum period of suspension. Such suspension shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart; and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
 In all cases, suspension will result in stipend and other benefits not being paid for the duration of the suspension, severance of the pastoral tie and the re-categorisation of the Respondent to Category S in the Register of Ministry. The suspension may only be lifted in accordance with section 28 of the Registration of Ministries Act (Act II 2017) upon application by the Respondent. If the suspension is lifted, in no circumstances shall the Respondent be eligible to be re-appointed to the charge in respect of which the pastoral tie was severed.
 - (vii) **Removal** of the status and functions of ministry. In accordance with section 34 of the Registration of Ministries Act (Act II 2017), the Respondent’s name shall immediately be removed from the Register of Ministry and recorded in List D. Such removal shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart; and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
 In all cases, restoration of status can only be sought through application in accordance with the Admission and Readmission of Ministers Act [(Act XIII 2022/Act [] 2025)]. No such application may be lodged until a period of at least four years has elapsed since the date of removal of the Respondent’s status and functions.

(2) Graduate Candidates

- (i) **Discharge**, where despite a finding that there has been misconduct on the part of the Respondent, the Tribunal considers that in all the circumstances (including the nature of the misconduct and the Respondent's overall character and response to the disciplinary process) there is no merit in imposing a penalty. A discharge may be absolute or subject to condition(s). Such discharge shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart, and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.

Failure to abide by condition(s) attached to a Discharge shall constitute a Disciplinary Offence.
- (ii) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart, and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- (iii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart; and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.

Disobedience of an Instruction shall constitute a Disciplinary Offence.
- (iv) **Final written warning** with specification of the required improvement in conduct/performance and the applicable timescale. Such warning shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart; and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.

Failure to achieve the required improvement within the timescale specified in the warning shall constitute a Disciplinary Offence.
- (v) **Fixed period suspension:** suspension from status for a specified period not exceeding three months. Payments to the Respondent shall be suspended for the fixed period. Such suspension shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart; and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.

Upon expiry of the specified fixed period, the suspension shall automatically be lifted and payments to the Respondent shall resume.
- (vi) **Suspension without limit of time but subject to a minimum period:** suspension from status without limit of time but subject to a specified minimum period of up to three years, with payments to the Respondent suspended, subject to restoration by the FAPLT in consultation with the Presbytery, upon petition by the Respondent following the expiry of such period. The FAPLT shall take into account the length of suspension served and may insist upon such discernment, assessment and training processes and placements as it sees fit.
- (vii) **Removal** of status, subject to restoration by the FAPLT in consultation with the Presbytery, upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed since the date of removal of such status. The FAPLT shall take into account the length of removal and may insist on such discernment, assessment and training processes and placements as it sees fit.

(3) Licentiates

- (i) **Discharge**, where despite a finding that there has been misconduct on the part of the Respondent, the Tribunal considers that in all the circumstances (including the nature of the misconduct and the Respondent's overall character and response to the disciplinary process) there is no merit in imposing a penalty. A discharge may be absolute or subject to condition(s). Such discharge shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart, and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.

Failure to abide by condition(s) attached to a Discharge shall constitute a Disciplinary Offence.
- (ii) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart, and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- (iii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart; and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.

Disobedience of an Instruction shall constitute a Disciplinary Offence.
- (iv) **Final written warning** with specification of the required improvement in conduct/performance and the applicable timescale. Such warning shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart; and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.

Failure to achieve the required improvement within the timescale specified in the warning shall constitute a Disciplinary Offence.

- (v) **Fixed period suspension:** suspension from the Roll of Licentiates for a specified period not exceeding three months. Any payments to the Respondent shall be suspended for the fixed period. Such suspension shall be reported by the Tribunal to:
- the Presbytery and recorded by it in a record apart; and
 - the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- Upon expiry of the specified fixed period, the suspension shall automatically be lifted and any payments to the Respondent shall resume.
- (vi) **Suspension without limit of time but subject to a minimum period:** suspension from the Roll of Licentiates without limit of time but subject to a specified minimum period of up to three years, with any payments to the Respondent suspended, subject to restoration by the FAPLT, in consultation with the Presbytery, upon petition by the Respondent following the expiry of such period. The FAPLT shall take into account the length of suspension served and may insist upon such discernment, assessment and training processes and placements as it sees fit.
- (vii) **Removal** from the Roll of Licentiates, subject to restoration by the FAPLT, in consultation with the Presbytery, upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed since the date of removal from the Roll. The FAPLT shall take into account the length of removal and may insist on such discernment, assessment and training processes and placements as it sees fit.
- (4) Candidates and Probationers
- (i) **Discharge**, where despite a finding that there has been misconduct on the part of the Respondent, the Tribunal considers that in all the circumstances (including the nature of the misconduct and the Respondent's overall character and response to the disciplinary process) there is no merit in imposing a penalty. A discharge may be absolute or subject to condition(s). Such discharge shall be reported by the Tribunal to:
- the Presbytery and recorded by it in a record apart, and
 - the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- Failure to abide by condition(s) attached to a Discharge shall constitute a Disciplinary Offence.
- (ii) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:
- the Presbytery and recorded by it in a record apart, and
 - the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- (iii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
- the Presbytery and recorded by it in a record apart; and
 - the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- Disobedience of an Instruction shall constitute a Disciplinary Offence.
- (iv) **Final written warning** with specification of the required improvement in conduct/performance and the applicable timescale. Such warning shall be reported by the Tribunal to:
- the Presbytery and recorded by it in a record apart; and
 - the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- Failure to achieve the required improvement within the timescale specified in the warning shall constitute a Disciplinary Offence.
- (v) **Fixed period suspension:** suspension from status for a specified period not exceeding three months. Payments to the Respondent shall be suspended for the fixed period. Such suspension shall be reported by the Tribunal to:
- the Presbytery and recorded by it in a record apart; and
 - the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- Upon expiry of the specified fixed period, the suspension shall automatically be lifted and payments to the Respondent shall resume.
- (vi) **Suspension without limit of time but subject to a minimum period:** suspension from status without limit of time but subject to a specified minimum period of up to three years, with payments to the Respondent suspended, subject to restoration by the FAPLT in consultation with the Presbytery, upon petition by the Respondent following the expiry of such period. The FAPLT shall take into account the length of suspension served and may insist upon such discernment, assessment and training processes and placements as it sees fit.
- (vii) **Removal** of status, subject to restoration by the FAPLT in consultation with the Presbytery, upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed since the date of removal of such status. The FAPLT shall take into account the length of removal and may insist on such discernment, assessment and training processes and placements as it sees fit.
- (5) Readers
- (i) **Discharge**, where despite a finding that there has been misconduct on the part of the Respondent, the Tribunal considers that in all the circumstances (including the nature of the misconduct and the Respondent's overall character and response to the disciplinary process) there is no merit in imposing a penalty. A discharge may be absolute or subject to condition(s). Such discharge shall be reported by the Tribunal to:
- the Presbytery and recorded by it in a record apart, and
 - the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- Failure to abide by condition(s) attached to a Discharge shall constitute a Disciplinary Offence.

- (ii) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart, and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- (iii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart; and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
 Disobedience of an Instruction shall constitute a Disciplinary Offence.
- (iv) **Final written warning** with specification of the required improvement in conduct/performance and the applicable timescale. Such warning shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart; and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
 Failure to achieve the required improvement within the timescale specified in the warning shall constitute a Disciplinary Offence.
- (v) **Fixed period suspension:** suspension from the status and duties of the Readership for a specified period not exceeding three months. Any payments to the Respondent shall be suspended for the fixed period. Such suspension shall be reported by the Tribunal to:
 - (a) the Presbytery and recorded by it in a record apart; and
 - (b) the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
 Upon expiry of the specified fixed period, the suspension shall automatically be lifted and any payments to the Respondent shall resume.
- (vi) **Suspension without limit of time but subject to a minimum period:** suspension from the status and duties of the Readership without limit of time but subject to a specified minimum period of up to three years, with any payments to the Respondent suspended, subject to restoration by the Presbytery (but only with the agreement of the FAPLT) upon petition by the Respondent following the expiry of such period. In considering whether the suspension shall be lifted, the FAPLT shall take into account the length of suspension served and may insist on such discernment, assessment and training processes and placements as it sees fit.
- (vii) **Removal** of the status and duties of the Readership, subject to restoration by the Presbytery (but only with the agreement of the FAPLT) upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed from the date of removal of status and duties. In considering whether the petitioner should be restored to such status and duties, the FAPLT shall take into account the length of suspension served and may insist upon such discernment, assessment and training processes and placements as it sees fit.
- (6) Elders and other Office Bearers
 - (i) **Discharge**, where despite a finding that there has been misconduct on the part of the Respondent, the Tribunal considers that in all the circumstances (including the nature of the misconduct and the Respondent's overall character and response to the disciplinary process) there is no merit in imposing a penalty. A discharge may be absolute or subject to condition(s). Such discharge shall be reported by the Tribunal to:
 - (a) the Kirk Session and recorded by it in a record apart, and
 - (b) the Presbytery and recorded by it in a record apart.
 Failure to abide by condition(s) attached to a Discharge shall constitute a Disciplinary Offence.
 - (ii) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:
 - (a) the Kirk Session and recorded by it in a record apart, and
 - (b) the Presbytery and recorded by it in a record apart.
 - (iii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
 - (a) the Kirk Session and recorded by it in a record apart; and
 - (b) the Presbytery and recorded by it in a record apart.
 Disobedience of an Instruction shall constitute a Disciplinary Offence.
 - (iv) **Final written warning** with specification of the required improvement in conduct/performance and the applicable timescale. Such warning shall be reported by the Tribunal to:
 - (a) the Kirk Session and recorded by it in a record apart; and
 - (b) the Presbytery and recorded by it in a record apart.
 Failure to achieve the required improvement within the timescale specified in the warning shall constitute a Disciplinary Offence.
 - (v) **Fixed period suspension:** suspension from membership of a Kirk Session and from holding any other office within a congregation for a specified period not exceeding three months. Such suspension shall be reported by the Tribunal to:
 - (a) the Kirk Session and recorded by it in a record apart; and
 - (b) the Presbytery and recorded by it in a record apart.
 Upon expiry of the specified fixed period, the suspension shall automatically be lifted.

- (vi) **Suspension without limit of time but subject to a minimum period:** suspension from membership of a Kirk Session and from holding any other office within a congregation without limit of time but subject to a specified minimum period of up to three years, subject to restoration by the Presbytery, with the agreement of the Kirk Session, upon petition by the Respondent following the expiry of such period.
Such suspension shall be reported by the Tribunal to:
- the Kirk Session and recorded by it in a record apart; and
 - the Presbytery and recorded by it in a record apart.
- An Elder, having been restored by Presbytery following suspension and being invited to become a member of another Kirk Session (i.e. not the one from which he/she was suspended), shall inform both the Session Clerk and the Presbytery Clerk of the circumstances of his/her suspension and may only be so admitted if the Kirk Session in question then agrees to proceed.
- (vii) **Removal** from the status and office of Elder, subject to restoration by the Presbytery with the agreement of the Kirk Session upon petition by the Respondent. No such petition may be lodged until a period of at least four years has elapsed from the date of removal of status and office.
Such removal shall be reported by the Tribunal to:
- the Kirk Session, and recorded by it in a record apart; and
 - the Presbytery and recorded by it in a record apart.
- A person, having had the status of Elder restored following removal and being invited to become a member of another Kirk Session (i.e. not the one from which he/she was removed) shall inform both the Session Clerk and the Presbytery Clerk of the circumstances of his/her removal. They shall not accept such an invitation until a period of at least four years has elapsed since their removal from such status.
- (viii) In the case of Office Bearers who are not Elders, **Removal** from a particular office held.
Such removal shall be reported by the Tribunal to:
- the Kirk Session and recorded by it in a record apart; and
 - the Presbytery and recorded by it in a record apart.
- An Office Bearer who is not an Elder and who is subsequently invited to take office in another congregation, shall inform both the Session Clerk and the Presbytery Clerk of the circumstances of his/her removal and may only be appointed to that office if the Kirk Session in question then agrees to it.
- (7) **Persons holding Certificates of Eligibility**
- (i) **Discharge**, where despite a finding that there has been misconduct on the part of the Respondent, the Tribunal considers that in all the circumstances (including the nature of the misconduct and the Respondent's overall character and response to the disciplinary process) there is no merit in imposing a penalty. A discharge may be absolute or subject to condition(s). Such discharge shall be reported by the Tribunal to:
- the Presbytery and recorded by it in a record apart, and
 - the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- Failure to abide by condition(s) attached to a Discharge shall constitute a Disciplinary Offence.
- (ii) **Reprimand**, which shall be an expression of disapproval of particular behaviour with counsel regarding future conduct. Such reprimand shall be reported by the Tribunal to:
- the Presbytery and recorded by it in a record apart; and
 - the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- (iii) **Instruction** regarding training, counselling, mentoring or such other course of action as the Discipline Tribunal shall consider appropriate. Such instruction shall be reported by the Tribunal to:
- the Presbytery and recorded by it in a record apart; and
 - the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- Disobedience of an Instruction shall constitute a Disciplinary Offence.
- (iv) **Final written warning** with specification of the required improvement in conduct/performance and the applicable timescale. Such warning shall be reported by the Tribunal to:
- the Presbytery and recorded by it in a record apart; and
 - the Head of Ministries & Mission and recorded by him or her in a personal file for the Respondent.
- Failure to achieve the required improvement within the timescale specified in the warning shall constitute a Disciplinary Offence.
- (v) **Removal** of the Certificate of Eligibility, subject to grant of a new Certificate of Eligibility in terms of the Admission and Readmission of Ministers Act [(Act XIII 2022/Act [] 2025)]. Such removal shall be reported by the Tribunal to the Head of Ministries & Mission. No application for a new Certificate of Eligibility may be lodged until a period of at least four years has elapsed from the date of removal of the previous Certificate of Eligibility."
3. *Delete the existing section 47 and substitute:*
- "47. The Presbytery shall meet within not less than twenty-one (21) and not more than thirty-five (35) days after receiving intimation of the written decision of the Discipline Tribunal and shall take any steps which may be required to implement the decision of the Discipline Tribunal. The Presbytery shall similarly meet to take any appropriate steps after a Respondent accepts a Censure with consent. If the Respondent is a parish minister:

- (1) In the event that the decision has not involved Fixed period suspension, Suspension without limit of time or Removal of status, it shall (a) lift any Administrative Suspension upon the individual concerned; (b) relieve the Interim Moderator of duty; and (c) undertake such steps in relation to other individuals and superintendence of its members and congregations as it finds necessary.
- (2) In the event that the decision has involved a Fixed period suspension, the Presbytery shall, at its meeting, confirm the appointment of an Interim Moderator or make a new appointment for the necessary period until the suspension expires, and shall undertake such steps against other individuals and superintendence of its members and congregations as it finds necessary.
- (3) In the event that the decision has involved a Suspension without limit of time, or the Removal of status, then: (i) the pastoral tie shall be severed with effect from the date on which the written decision of the Discipline Tribunal was issued, and (ii) any other ordained appointment which the Respondent held shall terminate on that date. The Presbytery shall, at its meeting, confirm the foregoing matters and it shall also confirm the appointment of an Interim Moderator or make a new appointment and shall undertake such steps against other individuals and superintendence of its members and congregations as it finds necessary.

In the event of an appeal being taken to the Judicial Commission against the decision of the Discipline Tribunal, (a) a Respondent, who is a parish minister, shall be entitled to remain in occupation of the manse pending the outcome of the appeal, and (b) the Presbytery shall meet again not less than twenty-one (21) and not more than thirty-five (35) days after receiving intimation of the written decision of the Judicial Commission and shall implement the decision of the Judicial Commission. The foregoing sections of this section 47 shall then apply *mutatis mutandis*. Where the decision of the Judicial Commission involves a change to a Censure imposed on a Respondent, who is a parish minister, (a) the Presbytery shall implement the foregoing sections of this section 47 so far as practicable and may seek the advice of the Principal Clerk as to dealing with any practical consequences of the Judicial Commission's decision, and (b) where that change is from a Suspension without limit of time or a Removal of status to a censure which would not have led to severance of the pastoral tie, then the Respondent shall be entitled to be compensated for stipend which should have been paid to him or her for the period from the date of the Discipline Tribunal's decision until the earlier of (a) six months after the date of the Judicial Commission's decision and (b) the date upon which the Respondent takes up remunerated employment or office."

Appendix C

[] ACT AMENDING THE REGISTRATION OF MINISTRIES ACT (ACT II 2017) (AS AMENDED)

Edinburgh, [] May 2025, Session []

The General Assembly hereby enact and ordain that the Registration of Ministries Act (Act II 2017), as amended, shall be further amended as follows:

1. Amend section 28 by inserting a new sub-paragraph (ii) as follows and renumbering thereafter accordingly:
"(ii) invite the Secretary to the Discipline Tribunal to comment on the application."
2. Delete sub-paragraph 2(1) in Schedule 2.

Appendix D

[] COMMUNION ROLLS AND ADHERENTS' ROLLS ACT

Edinburgh, [] May 2025, Session []

The General Assembly enact and ordain:-

Definitions

1. "Adherents' Roll" shall mean a list of the names and contact details of those persons who are not on the Communion Roll but who are regular worshippers in the charge, who are not members of any other charge, and in respect of whom the Kirk Session is satisfied that they desire to be permanently connected with the charge, provided always that the Kirk Session must know of no adequate reasons why such persons should not be admitted as communicant members on the Communion Roll should they so apply.
"Communion Roll" shall mean a list of the names and contact details of the full communicant members of the charge.
"Electoral Register" shall mean, for the purposes of the Call, Election and Appointment of Ministers of Word and Sacrament Act (Act [] 2025), both the Communion Roll and the Adherents' Roll.

Communion Roll and Adherents' Roll

2. The Kirk Session of each charge shall make up and maintain a Communion Roll and an Adherents' Roll. A person can only be listed on one or the other of such Rolls.
3. A record shall be kept in the Communion Roll of the dates:
 - (1) of enrolment
 - (a) by profession of faith
 - (b) by receipt of Certificates of Transference
 - (c) by special resolution of the Kirk Session
 - (2) of removals
 - (a) by death

- (b) by issue of Certificates of Transference
 - (c) by special resolution of Kirk Session.
4. A record shall be kept in the Adherents' Roll of the dates:
 - (1) of enrolment as an adherent as approved by the Kirk Session
 - (2) of removal as an adherent whether by death, by notice to, or by special resolution of the Kirk Session
 - (3) following profession of faith, by transfer to the Communion Roll.
 5. Persons whose names are on the Communion Roll may be elected as office bearers in the charge and may vote in congregational meetings. Persons whose names are on the Adherents' Roll may not be elected as office-bearers and are not entitled to vote in congregational meetings, save as follows: they may vote on Bases of Adjustment as provided for in the Presbytery Mission Plan Act (Act VIII 2021) and, being on the Electoral Register, on the election of a new minister in terms of the Call, Election and Appointment of Ministers of Word and Sacrament Act (Act [] 2025).

Attestation by Presbytery

6. The Communion Roll and the Adherents Roll shall normally be kept digitally, but may be kept in hard copy.
7. At the annual inspection of records by Presbytery, up-to-date printouts of both Rolls as at 31st December, duly attested by the Kirk Session, shall be produced for attestation by Presbytery. The printouts shall contain an appendix recording the names of people who have been removed from the Rolls during the year, along with the date, reason and means of removal.
8. After attestation of the Rolls by the Presbytery, annual printouts shall be kept by the Kirk Session as historical records, and shall be preserved in a substantial loose-leaf binder, or permanently bound at regular intervals.
9. For the purposes of attestation by the Presbytery, Communion Rolls and Adherents' Rolls kept in hard copy shall be submitted in their entirety.

Data Protection requirements

10. The Communion Roll, the Adherents' Roll and any Supplementary Roll kept by the Kirk Session in terms of section 17 of this Act shall be maintained and retained in accordance with the law on Data Protection from time to time, and Kirk Sessions shall follow the Guidance in this respect provided by the Law Dept and available on the Church's website.

Certificates of Transference

11. A communicant's name shall be transferred from the Communion Roll of one congregation to that of another congregation only by a Certificate of Transference, and such certificate shall not entitle the communicant to enrolment after the expiry of one year from the date which it bears. A Kirk Session receiving a Certificate after the period of validity has expired shall investigate the circumstances carefully and may thereafter resolve to add the name of the person concerned to the Communion Roll or to take such other action as it shall deem appropriate.
12. In the case of persons presenting Certificates of Transference, the date of enrolment shall be the date of lodging the certificate; and, in other cases, it shall be the date of the resolution of the Kirk Session to add the name to the appropriate Roll. The date of removal shall be the date of death, or date of issue of a Certificate of Transference, or the date of a resolution of the Kirk Session to remove the name from the Communion Roll.

Annual Revision of Rolls and Pastoral Oversight

13. Having given annual pulpit or other intimation that it is doing so, the Kirk Session shall revise and attest the Communion Roll and the Adherents' Roll, as at 31st December in each year, the attestation to include a statement of the number of names on the Rolls after revision. The Kirk Session shall make an entry in the Minutes that it did so.
14. At the annual revision of the Communion Roll the question of adherence to vows of Church membership shall be raised in the case of any person who during the year under review, without obvious and sufficient reason, has not, in the opinion of the Kirk Session, shown sufficient interest or taken an adequate share in the worship, mission and service of the Church. In the case of every such person whose contact details are known, the question shall be raised personally.
15. In the case of any person with whom the question of adherence to vows has been raised, the Kirk Session shall consider their response, if any, and may remove the name of such person from the Communion Roll at the next annual revision. The names of persons whose names have been removed from the Communion Roll under this Section shall be recorded in the Minutes and may be restored to the Communion Roll by resolution of the Kirk Session.
16. The Kirk Session, with a view to lessening the risk of losing Church connection, shall issue to every member in full Communion when leaving, or immediately after leaving, the parish or district to take up residence elsewhere, a Certificate of Transference, unless the communicant has expressed a definite desire to retain his or her connection with the congregation and the minister and Kirk Session are prepared to accept pastoral responsibility for him or her. A Kirk Session receiving a Certificate of Transference shall acknowledge receipt of the same to the Kirk Session which has issued it. A Certificate of Transference may be issued by email to the departing communicant, and upon request by the communicant, a Certificate may be emailed direct to the new Session.

Supplementary Roll – transitional provisions

17. From the date of passing of this Act, Kirk Sessions are no longer required to keep Supplementary Rolls, on which were historically placed the names of persons who had been removed from the Communion Roll without a Certificate of Transference and who continued to reside in the parish or district. If any such Roll is kept, for example for the purposes of communicating with such persons by email newsletter, the following conditions must be observed:

- (1) It must be kept accurate and up to date;
- (2) Access to it should be restricted to those who require access for legitimate congregational purposes;
- (3) It should be reviewed annually and entries should be erased where it is no longer necessary to retain them; and
- (4) If an individual asks that their name be removed from the Roll, this should be acted on immediately.

Appendix E

[] ACT AMENDING THE SACRAMENTS ACT (ACT V 2000) (AS AMENDED)

Edinburgh, [] May 2025, Session []

The General Assembly hereby enact and ordain that the Sacraments Act (Act V 2000), as amended, shall be further amended as follows:

1. *Add a new section 18 and renumber the existing section 18 as section 19:*
 “The right of the Kirk Session to admit to the Lord’s Table a member of any Christian Church is expressly affirmed.”

Appendix F

[] ACT AMENDING THE COMMISSION OF ASSEMBLY ACT (ACT VI 1997)

Edinburgh, [] May 2025, Session []

The General Assembly hereby enact and ordain that Commission of Assembly Act (Act VI 1997), as amended, shall be further amended as follows:

1. *Delete the existing section 9 and substitute:*
 “The Commission shall act in accordance with the Constitution of the Church and the Acts of the General Assembly. The Commission will not normally have power to legislate, but may do so in the following circumstances: (i) as specified in section 5(1)(h) above, or (ii) where a General Assembly has approved principles for the proposed legislation and that same Assembly specifically instructs that a Commission of Assembly shall be held within the following twelve months to consider and, if content, approve the terms of the detailed legislation, which will be drafted in accordance with those principles.”

Appendix G

[] ACT AMENDING THE CHURCH COURTS ACT (ACT VI 2023)

Edinburgh, [] May 2025, Session []

The General Assembly hereby enact and ordain that the Church Courts Act (Act VI 2023) shall be amended as follows:

1. *In section 13.1.2 delete sub-sections g) to k) and then insert a new sub-section 13.1.4 as follows, renumbering the existing sections 13.1.4 and 13.1.5 as 13.1.5 and 13.1.6 respectively:*
 “13.1.4 A Minister who is one of the following:
 a) a healthcare chaplain,
 b) a prison chaplain,
 c) a workplace chaplain,
 d) a university chaplain, or
 e) a professor or lecturer in an Accredited institution as defined in Act X 2004,
 shall be a member of the Presbytery where he or she is employed, or of the Presbytery within which is situated the congregation of which he or she is a member, or of the Presbytery within the boundaries of which he or she resides, as he or she may choose.”
2. *In the existing sections 13.1.4 and 13.1.5, amend the reference to “sections 13.1.2 and 13.1.3 above”, to “sections 13.1.2, 13.1.3 and 13.1.4 above”.*
3. *At the end of section 13.3.1, add “In a Team Ministry Charge, the Kirk Session shall elect a number of representative elders equal to the number of Team Ministers.”*