

THE PRINCIPAL  
**ACTS**  
OF THE  
**GENERAL ASSEMBLY**  
OF THE



**FREE CHURCH**  
*of* **SCOTLAND**

CONVENED AT EDINBURGH, MAY 2023

FREE CHURCH OF SCOTLAND, THE MOUND, EDINBURGH  
(Scottish Charity Number: SC012925)

## CONTENTS

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### LIST OF THE PRINCIPAL ACTS OF THE GENERAL ASSEMBLY

#### CLASS I - ACTS WHICH HAVE PASSED THE BARRIER ACT

Act 1 Questions and Formula

#### CLASS 2 - ACTS WHICH ARE OF GENERAL INTEREST TO THE CHURCH

Act 2 Repeal of Act 2, Class 1, 1995

Act 3 Licensing of Students

Act 4 Media Officer

Act 5 Loyal and Dutiful Address

Act 6 Cooperative Agreement with Mission to the World

Act 7 Assistant Minister at Bon Accord

Act 8 Assistant Minister at Dowanvale

Act 9 Assistant Minister at Smithton

Act 10 Christian Education Group

Act 11 Psalmody and Praise Committee

Act 12 Legal Action Review Group

Act 13 Professor-Emeritus John McIntosh

Act 14 Professor-Emeritus John Angus Macleod

Act 15 Dr Zachary Purvis

Act 16 Board of Ministry Officer/Coordinator

Act 17 Membership of the ETS Board

Act 18 Public Engagement Coordinator

Act 19 Review of Practice and Procedures

Act 20 Church Planting

Act 21 Ministers' Absences due to Ill-health

Act 22 Leave of Absence for Ministers

Act 23 Assembly Clerks

Act 24 Interim Act - Conduct, Complaints and Discipline of Office-bearers

Act 25 Amending Act 23, Class 2, 2021 – Journey into Ministry

Act 26 Amending Act 21, Class 2, 2022 – Training for Ministry

Act 27 Amending Act 19, Class 2, 2016 – Recognition of Candidates and Admission of Ministers

Act 28 Appointing the Commission of Assembly

Act 29 Appointing the 2023 General Assembly

#### ACTS OF THE COMMISSION OF ASSEMBLY

Act 1 Admission of Rev. Jeremy Christopher Taylor

Act 2 Union of Blackwood and Kirkmuirhill and East Kilbride

- Act 3 Linkage of Burghead and Elgin and Forres
- Act 4 Assistant Minister at Cornerstone
- Act 5 Christ Church Glasgow
- Act 6 Judicial Commission and Legal Representation
- Act 7 Admission of Rev. Benjamin Castaneda
- Act 8 Union of Glasgow City and Glasgow Partick
- Act 9 Amending Act 3, Class 2, Commission of Assembly - Linkage of Burghead and Elgin and Forres

## THE PRINCIPAL ACTS OF THE GENERAL ASSEMBLY

### CLASS 1 ACTS – ACTS WHICH HAVE PASSED THE BARRIER ACT

#### Act 1 – Question and Formula

Number 1 of Class 1

*Category: Governance*

*Monday 22nd May 2023*

1. The General Assembly, with the consent of Presbyteries, seeking to revise and update the wording of the Questions and Formula as such are set out in Act 12, 1846, approve the revised wording as follows:

<b>Part 1</b>
<b>Questions to be put to Elders and Deacons before Ordination</b>
1. Do you believe that the Scriptures of the Old and New Testaments are the Word of God, and are the only rule of faith and practice?
2. Do you sincerely own and declare the whole doctrine of the Westminster Confession of Faith, as accepted by General Assemblies of this Church <sup>1</sup> , to be the truth of God contained in the Old and New Testaments; and do you affirm the Confession to be the confession of your faith to which you will constantly adhere?
3. Do you own and acknowledge the Presbyterian form of Church Government <sup>2</sup> to be the only Government of this Church; and do you promise not to, directly or indirectly, subvert or prejudice it, but submit to it and to concur with it?
4. Do you believe that the Lord Jesus Christ, as King and Head of the Church, has appointed a government in the Church in the hands of Church-officers, distinct from, and not subordinate in its own sphere to, civil government, and that civil government has no jurisdiction over the regulation of the affairs of Christ's Church?
5. Do you approve the general principles embodied in the historic Disruption documents of 1842 and 1843 <sup>3</sup> as declaring the views authorised by the Word of God and the Standards of this Church, with respect to the spirituality and freedom of the Church of Christ, and her subjection to Him as her only Head, and to His word as her only standard?
6. Do you promise to observe uniformity of worship and the administration of all public ordinances within this Church as presently performed and allowed?
7. Do you accept the office of Elder [Deacon] of this congregation and promise, through grace, to faithfully, diligently and cheerfully perform all the duties of an Elder [a Deacon]?

<b>Part 2</b>
<b>Questions to be put to Probationers before they are Licensed to preach the Gospel</b>
1. Do you believe that the Scriptures of the Old and New Testaments are the Word of God, and are the only rule of faith and practice?

<sup>1</sup> As understood by the Act of the General Assembly of the Church of Scotland 1647 anent Approbation of Confession of Faith and in Act 12, 1846.

<sup>2</sup> Presbyterian government is government by Kirk-Sessions, Presbyteries, Provincial Synods (where operating), and General Assemblies.

<sup>3</sup> For the avoidance of doubt the historical documents referred to in this question are the Claim, Declaration, and Protest, adopted by the General Assembly of the Church of Scotland in 1842, and in the Protest of Ministers and Elders, Commissioners from Presbyteries to the General Assembly, read in presence of the Royal Commissioner on 18th May 1843

2. Do you sincerely own and declare the whole doctrine of the Westminster Confession of Faith, as accepted by General Assemblies of this Church <sup>4</sup> , to be the truth of God contained in the Old and New Testaments; and do you affirm the Confession to be the confession of your faith to which you will constantly adhere?
3. Do you sincerely own the purity of worship as presently authorised and practiced in this Church, and also its Presbyterian form of Government and discipline; and are you persuaded that the said doctrine, worship, government and discipline are founded upon and agreeable to the Word of God?
4. Do you believe that the Lord Jesus Christ, as King and Head of the Church, has appointed a government in the Church in the hands of Church Officers, distinct from, and not subordinate in its own sphere to, civil government, and that civil government has no jurisdiction over the regulation of the affairs of Christ's Church?
5. Do you approve the general principles embodied in the historic Disruption documents of 1842 and 1843 <sup>5</sup> as declaring the views authorised by the Word of God and the Standards of this Church, with respect to the spirituality and freedom of the Church of Christ, and her subjection to Him as her only Head, and to His word as her only standard?
6. Do you promise, through the grace of God, that you will firmly and constantly adhere to the doctrine, worship, discipline, and government of this Church and wholeheartedly assert, maintain, support and defend it?
7. Do you promise to conform to the worship of this Church and to submit to the discipline and government of this Church, and not to, directly or indirectly, subvert or prejudice it?
8. Do you promise that you will follow no divisive courses from the doctrine, worship, discipline, and government of this Church?
9. Do you renounce all doctrines, tenets, or opinions contrary to, or inconsistent with, the doctrine worship, discipline, and government of this Church?
10. Do you promise that you will submit yourself willingly and humbly to the lawful authorities of this Church?

<b>Part 3</b>
<b>Questions to be put to Probationers before Ordination</b>
<b>Questions to be put to a Minister already ordained at his admission to a Pastoral Charge</b>
1. Do you believe that the Scriptures of the Old and New Testaments are the Word of God, and are the only rule of faith and practice?
2. Do you sincerely own and declare the whole doctrine of the Westminster Confession of Faith as accepted by General Assemblies of this Church <sup>6</sup> , to be the truth of God, contained in the Old and New Testaments; and do you affirm the Confession to be the confession of your faith to which you will constantly adhere?
3. Do you promise to firmly and faithfully hold fast to the doctrine of the Westminster Confession of Faith, and to declare, teach and defend the same?
4. Do you renounce all doctrines, tenets or opinions <sup>7</sup> contrary to, or inconsistent with, the Westminster Confession of Faith?
5. Do you promise to observe uniformity of worship and the administration of all public ordinances within this Church as presently performed and allowed?

<sup>4</sup> As understood by the Act of the General Assembly of the Church of Scotland 1647 anent Approbation of Confession of Faith and in Act 12, 1846.

<sup>5</sup> For the avoidance of doubt the historical documents referred to in this question are the Claim, Declaration, and Protest, adopted by the General Assembly of the Church of Scotland in 1842, and in the Protest of Ministers and Elders, Commissioners from Presbyteries to the General Assembly, read in presence of the Royal Commissioner on 18th May 1843

<sup>6</sup> As understood by the Act of the General Assembly of the Church of Scotland 1647 anent Approbation of Confession of Faith and in Act 12, 1846.

<sup>7</sup> For the avoidance of doubt the disowning all doctrines, tenets and opinion contrary to the Confession including all Roman Catholic, Arian, Socinian, Arminian and Erastian positions,

6. Are you persuaded that the Presbyterian Government <sup>8</sup> and Discipline of this Church are founded on and agreeable to the Word of God; and do you promise to submit to them and concur with them, and not to, directly or indirectly, subvert or prejudice it, but wholeheartedly to maintain, support and defend them as God enables you?
7. Do you believe that the Lord Jesus Christ, as King and Head of the Church, has appointed a government in the Church in the hands of Church-officers, distinct from, and not subordinate in its own sphere to, civil government, and that civil government has no jurisdiction over the regulation of the affairs of Christ's Church?
8. Do you approve the general principles embodied in the historic Disruption documents of 1842 and 1843 <sup>9</sup> as declaring the views authorised by the Word of God and the Standards of this Church, with respect to the spirituality and freedom of the Church of Christ, and her subjection to Him as her only Head, and to His word as her only standard?
9. Do you promise to submit yourself willingly and humbly to the lawful authorities of this Church, whether Presbyteries or General Assemblies; and to maintain its unity and peace against error and schism, regardless of whatever trouble or persecution may arise, and that you will follow no divisive courses from its doctrine, worship, discipline, and government?
10. Are not the call of God, zeal for his glory, love for the Lord Jesus Christ, and a desire for the salvation of all people, your primary motivations to serve God in the holy ministry rather than worldly interests?
11. Have you used any inappropriate methods, either by yourself or others, to procure this call?
12. Do you commit yourself, in the strength of Christ, to godly and exemplary conduct in personal, family and public life?
13. Do you wholeheartedly accept this call to be pastor of this congregation, and promise, through grace, to faithfully, diligently and cheerfully perform all the duties of a Minister of the gospel among this people, as well as in the wider community, seeking in all things the glory of God and the advancement of His kingdom?

<b>Formula</b>
<b>To be subscribed by Probationers before receiving Licensing, and by all Office-bearers at the time of Admission to Office</b>
I, _____, do hereby declare, that I do sincerely own and believe the whole doctrine of the Westminster Confession of Faith, as accepted by General Assemblies of this Church, to be the truth of God and I do own the same as the confession of my faith; as likewise I do own the purity of worship as presently authorised and practiced in this Church, and also its presbyterian government and discipline; which doctrine, worship, and church government, I am persuaded are founded upon and agreeable to the word of God.  I also approve of the general principles respecting the jurisdiction of the Church, and its subjection to Christ as its only Head, contained in the historic Disruption documents of 1842 and 1843. <sup>10</sup> And I promise that, through the grace of God, I shall firmly and constantly adhere to the same, and wholeheartedly assert, maintain, support

<sup>8</sup> Presbyterian government is government by Kirk-Sessions, Presbyteries, Provincial Synods (where operating), and General Assemblies.

<sup>9</sup> For the avoidance of doubt the historical documents referred to in this question are the Claim, Declaration, and Protest, adopted by the General Assembly of the Church of Scotland in 1842, and in the Protest of Ministers and Elders, Commissioners from Presbyteries to the General Assembly, read in presence of the Royal Commissioner on 18th May 1843.

<sup>10</sup> For the avoidance of doubt the historical documents referred to in this question are the Claim, Declaration, and Protest, adopted by the General Assembly of the Church of Scotland in 1842, and in the Protest of Ministers and Elders, Commissioners from Presbyteries to the General Assembly, read in presence of the Royal Commissioner on 18th May 1843

and defend it, and the presbyterian government of this Church, together with the liberty and exclusive jurisdiction of it; and that I shall conform to the worship, and submit to the discipline, government, and exclusive jurisdiction, and not endeavour to subvert or prejudice them. And I promise that I shall follow no divisive course from the doctrine, worship, discipline, government, and exclusive jurisdiction of this Church, renouncing all doctrines, tenets, and opinions whatsoever, contrary to, or inconsistent with, the doctrine, worship, discipline, government, or jurisdiction of this Church.

## CLASS 2 ACTS – ACTS WHICH ARE OF GENERAL INTEREST TO THE CHURCH

### Act 2 – Repeal of Act 2, Class 1, 1995

Number 1 of Class 2

*Category: Governance*

*Monday 22nd May 2023*

The General Assembly note that Act 2, Class 1, 1995 anent Admission of Ministers and Probationers from other Denominations or Churches was not repealed when Act 19, Class 2, 2016 anent Recognition of Candidates and Admission of Ministers was passed. They also note that Act 2, 1995 is a Class 1 Act and that such Acts are normally repealed through an Overture to Presbyteries under the requirements of the Barrier Act. They recognise that Act 19, Class 2, 2016, has been operating for some time in the Church, and that, therefore, there is no sudden alteration or innovation introduced by the repeal of the Act 2, Class 1, 1995. They waive the need for an Overture to Presbyteries under the requirements of the Barrier Act in this case. They repeal Act 2, Class 1, 1995 anent Admission of Ministers and Probationers from other Denominations or Churches.

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### Act 3 – Licensing of Students

Number 2 of Class 2

*Category: Governance*

*Monday 22nd May 2023*

The General Assembly, recognising the need for the Church to protect its doctrinal and historical position, and its role in assessing and approving candidates for the full-time pastoral ministry, enact and ordain as follows:

#### A. GENERAL

1. **The Purpose.** Presbyteries are reminded that the purpose of the examination is to ascertain that the Applicant for Licensing is a suitably qualified person to be eligible to receive a call to a vacant congregation or other full-time ministerial appointment. The Presbytery will ascertain this suitability by focussing on the following:
  - 1.1. *Personal.* The Presbytery must be persuaded regarding the Applicant's good character, conduct, and reputation.
  - 1.2. *Participation.* The Presbytery must be persuaded that the Applicant is of a peaceable disposition, and that he promotes the harmony and unity of the Church.
  - 1.3. *The Formula.* The Presbytery must be persuaded that the Applicant is in a position honestly and intelligently to sign the Formula. This includes knowledge of the following:
    - 1.3.1. The Applicant's understanding of the Word of God.
    - 1.3.2. The Applicant's understanding of the Westminster Confession of Faith.
    - 1.3.3. The Applicant's understanding of Free Church Principles and Practice.
  - 1.4. *Preaching.* The Presbytery must also be persuaded about the Applicant's ability to lead the public worship of God and to preach the gospel.
  - 1.5. *Applicant.* For the avoidance of doubt, the term Applicant in this Act refers to the Candidate for the full-time pastoral ministry who has applied to the Presbytery to be taken on examination for licence to preach the gospel.
2. **Training Programme.** The General Assembly instruct Presbyteries to take cognisance that an Applicant for licensing who has successfully completed the Church's Training for Ministry programme will have achieved the following outcomes which are aligned with the criteria for the suitability of those who are to be licensed to preach the gospel:

- 2.1. *Character.* The minister-in-training must show that he is of good conduct and character and gives evidence of continual growth in love for Christ and likeness to Him.
- 2.2. *Convictions.* The minister-in-training must hold, own, and believe to be true by personal conviction the teaching and doctrine of the Word of God, the confessional position of the Church, and the principles and practice of the Free Church in government. This includes the person's philosophy of ministry and his understanding of the role of the minister and involvement in the leadership of the Church.
- 2.3. *Competence.* The minister-in-training will demonstrate his ability to preach. The training programme will focus on developing competence in preaching and teaching the Scriptures. The programme will also help the minister-in-training to develop competence in pastoral care, communication skills, leadership, administration and organising services.
- 2.4. *Cooperation.* The minister-in-training will understand the need for cooperation between individuals, congregations, and Presbyteries. He will show in his development, his understanding of the presbyterian structure of the Church and his understanding of the need for participation in the life of the wider Church.

## **B. THE APPLICATION**

1. **Application.** The Board of Ministry will contact all Candidates for the Free Church ministry, who are in the final year of their training for ministry course, by 31<sup>st</sup> December to establish whether they wish to seek licence to preach the gospel or not.
  - 1.1. *Notice to Presbyteries.* The Clerk of the Board of Ministry shall forward the names of the Applicants to all Presbytery Clerks, indicating the Presbytery to which the Candidate is making application.
    - 1.1.1. The Clerk shall do so by 31<sup>st</sup> January of the year on which the application will be taken up.
    - 1.1.2. The letter shall remind Presbyteries that the Presbytery to whom the student is applying shall proceed with the examination of the Applicant unless objections are received within two months of the notice being given.
2. **Rights of Presbyteries.** The licensing of students to preach the gospel is a matter of interest to the whole Church and Presbyteries have the right to object.
  - 2.1. *Rights.* The covering letter from the Board of Ministry will indicate that the Presbytery is at liberty to object to any Candidate whose name appears on the list being taken on the examination process.
  - 2.2. *Deadline.* Presbyteries will be reminded that if they wish to exercise the right to object, they must submit their objection to the Presbytery to whom the Candidate has applied with reasons not later than 31<sup>st</sup> March.
  - 2.3. *Examination.* If no objections are received from any Presbytery within two months of notice being given, the Presbytery to whom the Candidate has applied shall proceed towards examination of the Applicant for licence.
3. **Objections.** An objection to the Applicant being licensed to preach the gospel may be raised by any member of a Presbytery.
  - 3.1. *Reasons.* A competent objection will be that which is raised regarding Applicant's character, conduct, reputation, or ability.
  - 3.2. *Presbytery.* The Presbytery where the objection is raised will hear the objection and will first pass judgement on its competence. The Presbytery will then deliberate on the matter before coming to their finding. The following two outcomes are competent when concluding the matter:
    - 3.2.1. The objection is sustained, and the matter communicated to the Principal Clerk. The Presbytery will appoint representatives to present the objection at the Bar of the Presbytery to which the Candidate has applied.
    - 3.2.2. The objection is dismissed, and the matter is closed.
  - 3.3. *Right to be Heard.* Any Presbytery that sustains an objection to the licensing of a Candidate shall be entitled to send representatives to state its objections at the Bar of the Presbytery to which the Candidate has applied.
  - 3.4. *Notification.* The sustained objection must be submitted to the Assembly Clerks' Office by 30<sup>th</sup> April.
4. **Hearing.** The Assembly Clerks will notify the Presbytery to which the Candidate has applied, of the objection and its reasons.
  - 4.1. *Special Meeting.* The Assembly Clerks' Office will instruct the Presbytery to arrange a special meeting (*pro re nata*) to hear the Objection on a date prior to the date appointed for the Applicant to be examined.
  - 4.2. *Hearing.* The Objection will be heard at the Bar of Presbytery at the special meeting.
    - 4.2.1. The representatives of the Presbytery raising the objection and the Candidate will be the parties at the Bar.



4.2.2. If the Objection is upheld, the Presbytery will record this in their minutes, the Applicant will be informed of the outcome, and the application process will be terminated. The Candidate will be informed of his right of appeal to the General Assembly or its Commission.

4.2.3. If the Objection is dismissed, the Presbytery will record this in their minutes and proceed with the licensing application as previously appointed.

4.3. *Right of Appeal.* If the representatives of the Presbytery who raised the Objection find themselves unable to acquiesce in the Presbytery's decision, they shall have the right to Appeal to the General Assembly or its Commission.

4.4. *Sisting Procedure.* Such an Appeal shall automatically sist procedure until a final decision is pronounced by the Superior Court.

### C. THE PRELIMINARIES

1. **General.** The Presbytery shall proceed as follows regarding arrangement for the examination of the Applicant:

1.1. *Notice of Motion.* The Presbytery shall fix a date on which they will examine the Applicant(s) for licensing by way of notice of motion to be considered at the next ordinary meeting of the Presbytery.

1.2. *Age Limit.* No student shall be taken on examination for licence who is under twenty-one years of age.

1.3. *Communicant Membership.* No student shall be taken on examination for licence unless he has been a communicant member of the Free Church of Scotland for a minimum period of two years prior to the date of his being taken on the licensing examination.

1.4. *Training Programme.* No Applicant will be examined for licensing unless he has completed the course of training and study prescribed by the Board of Ministry in consultation with Edinburgh Theological Seminary.

1.5. *Prerequisites.* The Presbytery shall not agree to the motion on behalf of the student unless the requirements of Paragraphs Two and Three below are met.

1.6. *Notice to Applicant.* The Presbytery shall inform the Applicant(s) of the proposed date of the licensing examination. They will give him details of the examination and the appointed examiners and instruct him to await contact directly from them.

2. **Documentation.** The Presbytery must have the following documents before it proceeds with the examination:

2.1. *ETS.* A completion certificate from the Senate of Edinburgh Theological Seminary indicating that the applicant has satisfactorily completed his studies, including the Presbyterian Church Ministry Module, and that his conduct, so far as is known to the Senate, is consistent with the high office he has in view.

2.2. *Board of Ministry.* A completion certificate from the Board of Ministry indicating that the Applicant has successfully completed his assigned course of studies and training.

2.3. *Training Church.* A character reference from the Training Church giving confirmation of the Applicant's good character, conduct, and reputation.

2.4. *References.* In exceptional circumstances, where the Applicant has not worked in the Training Church as part of his assigned course, the Presbytery will proceed as follows:

2.4.1. If the Applicant has been resident in a Presbytery other than the supervising Presbytery, the Presbytery will request a reference from the Presbytery under whose bounds he resided regarding the Applicant's character, conduct, and reputation.

2.4.2. In such circumstances, the Presbytery will also request a reference from the Kirk Session of the congregation in which the Applicant worshipped during the time of his studies and training.

2.5. *Seminary Dissertation.* A copy of his Seminary Dissertation duly sustained.

2.6. *Miscellaneous.* At its discretion, the Presbytery may also ask for copies of any essays or assignments submitted by the student as part of his programme of studies.

3. **Assignments.** The Presbytery will give the following assignments to the Applicant in preparation for the licensing:

3.1. *Preaching.* The Presbytery should be satisfied that the Applicant is competent to preach and conduct public worship of God.

3.1.1. The Presbytery will normally arrange for the Applicant to conduct public worship, including sermon, and shall appoint representatives to attend and report on the competence of the student.

3.1.2. In circumstances where the Applicant has not worked on a Training Church during his course of studies, it will be compulsory for him to undertake a preaching assignment.

3.2. *Doctrine.* The Presbytery will examine the Applicant on doctrine and in doing so will appoint a member or members to examine him on the Westminster Confession of Faith.

3.3. *Church Principles.* The Presbytery will examine the Applicant's understanding of the Church and will appoint a member or members to examine him on Free Church Principles and Practice

#### D. THE LICENSING

1. **Notice of Motion.** The Presbytery will take up consideration of the notice of motion made at the last ordinary meeting to examine the Applicant(s) suitability to be licensed to preach the gospel. If the motion is passed, and no objections have been received, the Presbytery will proceed with the examination.

2. **Private Session.** The Presbytery shall meet in private when discussing each stage in the process.

3. **The Review.** The Presbytery will consider the following in proceeding to decide on the application for licensing to preach the gospel.

3.1. *Annual Reports.* The Presbytery will note the annual reports of the Board of Ministry and ETS regarding the Applicant's character, conduct, achievements, and the confirmed suitability of the Applicant as a Candidate for the Free Church Ministry.

3.2. *Certificates.* The Presbytery will note the final Board of Ministry and ETS certificates regarding the Applicant and confirmation or otherwise of him having successfully achieved the outcomes of the Training for Ministry programme.

3.3. *References.* The Presbytery will note references regarding the Applicant's character, conduct, and reputation, from the Training Church Kirk Session.

3.3.1. In exceptional circumstances where the Applicant's training did not include working in a Training Church, the Presbytery will note references received from the Presbytery within whose bounds he resided during studies and training, and Kirk Session of the congregation in which he worshipped during that time.

3.4. *Preaching Assignment.* In cases where Applicant has been assigned to lead public worship and preach a sermon to confirm ability to preach, the Presbytery will receive the report of members appointed to be present to assess the Applicant.

3.4.1. If the representatives report themselves satisfied, the Presbytery will proceed with the examination. If they report themselves dissatisfied, the Presbytery shall resolve not to proceed any further with the examination.

3.4.2. If the Presbytery resolves not to proceed further, they shall note their reasons and shall inform the Applicant accordingly.

3.5. *Other Assignments.* In cases where the Applicant has been assigned an examination on doctrine and on Free Church Principles and Practice, the Presbytery will appoint a committee to meet with the Candidate to carry out the examination.

3.5.1. The Presbytery shall assign the specific areas of the examination.

3.5.2. The Committee shall report to the Presbytery on completion of the examination with recommendations.

3.6. *Records.* The Presbytery will record in its minutes that the documents and certificates listed in Section C, Paragraph 2 above have been received according to individual circumstances.

3.7. *Interview.* The Applicant will be called into the meeting and will be interviewed by the Presbytery and an opportunity given to members of the Presbytery to ask further questions for clarification, after which the Applicant will leave the meeting.

4. **The Outcome.** The Presbytery shall take a careful and combined view of all the documents and reports before them.

4.1. *Confirmation.* If the annual reports, certificates and references, and the assignments when required, confirm that the Applicant is suitably qualified to answer the Question and sign the Formula, the Presbytery may proceed to the licensing. They shall record the decision in their minutes.

4.2. *Unqualified.* If the Presbytery forms the opinion that the Applicant is not properly qualified to sign the Formula and to perform the duties of a minister of the Gospel, they shall not grant him a licence.

4.2.1. They shall record in their minutes the reasons on which this opinion is based.

4.2.2. They shall consider what further training may benefit the Applicant to enable him to reach the standard required to be licensed to preach the gospel.

4.3. *Notice to Applicants.* The Applicant will be recalled to the meeting and the Moderator will inform him of the Presbytery's decision.

4.3.1. In the case of the successful Applicant, the Moderator will inform him of the arrangements for the licensing.

4.3.2. In the case of the unsuccessful Applicant, the Moderator will inform him of the reasons behind the decision and will advise him as to the suggested further training to continue his development. The Applicant will be entitled to a copy of the reasons in writing.

4.3.3. In the case of the unsuccessful Applicant, the Presbytery will determine, on the basis of the suggested further training, whether to permit the candidate to re-apply for licensing to this Presbytery after a period of one year or after a period of two years. The Moderator will advise the Applicant of this decision.

5. **The Licensing.** The Presbytery shall then, or at a later public meeting of Presbytery, put to the Applicant the Questions appointed by the General Assembly to be put to Probationers before signing the Formula.

5.1. *A Later Meeting.* If the Presbytery decides to license the Applicant at a later public meeting, they shall at this point agree the date and venue of such a meeting. They shall instruct the successful Applicant to be present for the meeting and they shall appoint the Moderator to preside at the licensing service. They shall also proceed to announce details of the meeting in an appropriate way.

5.2. *Formula.* Having given satisfactory answers, the Presbytery shall require the student to subscribe to the Formula. No student shall be licensed to preach the gospel who will not give explicit and satisfactory answers and subscribe to the Formula.

5.3. *Licensing.* The Moderator, in the name and by the authority of the Presbytery, shall solemnly license the student as a preacher of the Gospel.

5.4. *Licensing Statement.* The Moderator shall license the Applicant in the following terms – “In the name of the Lord Jesus Christ, the King and Head of the Church, and by the authority of this Presbytery, we do now license you to preach the gospel of the grace of God, and to exercise your gifts as a probationer for the Holy Ministry.”

5.5. *Extract.* The Presbytery Clerk shall issue the student with an extract of his Licence.

5.6. *Roll of Probationers.* Within one week, the Clerk of Presbytery shall forward the name and address of the Licentiate, with the date of his Licence, to the Principal Clerk of the General Assembly, who shall enter the name of the licentiate on the Roll of Probationers.

6. **Right of Appeal.** The Presbytery are the sole hearers of the examination and the licensing of students to preach the gospel is a matter that belongs to their powers and function. Its decision, therefore, shall be final. However, it shall be competent for the Applicant or for a member of the Presbytery to contest the decision if there is a perceived fault on the part of the Presbytery.

6.1. *The Applicant.* The Applicant may appeal in writing within ten days of receiving the written reasons for Presbytery's decision that he was not properly qualified to sign the Formula and to perform the duties of a minister of the Gospel.

6.2. *Member of Presbytery.* The member of Presbytery may dissent with leave to complain to the General Assembly or its Commission.

6.3. *Reasons.* It shall be competent to appeal only on one or more of the following grounds:

6.3.1. The irregularity of procedure or a failure to follow due process.

6.3.2. The incompetency of the decision due to a failure to comply with Church law.

6.3.3. The decision influenced by incorrect material fact.

6.3.4. A breach of the principles of natural justice.

6.4. *Assembly Clerks' Office.* In order to expedite the Appeal process, and to ensure the avoidance of delay, the Assembly Clerks' Office shall appoint a committee to gather information on the Appeal and to prepare a report for the Appeal to be heard at the General Assembly or its Commission within two months of the Presbytery's original decision.

6.4.1. The Assembly Clerks will consult with the Assembly Business Committee when appointing the Appeal's Committee.

## E. REPEALS

The General Assembly repeal Act 40, Class 2, 2014.

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### Act 4 – Media Officer

Number 3 of Class 2

*Category: Governance*

*Monday 22nd May 2023*

The General Assembly, seeking to revise and update the terms of appointment of the Media Officer, enact and ordain as follows:

1. **General Requirements.** The Media Officer shall be a Minister or Elder of the Free Church of Scotland.
  - 1.1. The Media Officer shall be an effective communicator, comfortable in dealing with members of the press and other media, and a competent writer in popular style.
2. **Appointment.** The Media Officer shall be appointed by the General Assembly on the recommendation of the Board of Trustees.
  - 2.1. *Appointments Group.* The Appointments Group will be responsible for managing the process of filling vacancies that arise in the post of Media Officer.
  - 2.2. *Term.* The appointment shall be for a period of four years, renewable for a second and final four-year term.
  - 2.3. *Review.* The Board shall initiate a review of the appointment six months before the first four-year term is due to end.
  - 2.4. *Re-appointment.* The Board shall have the authority to re-appoint the incumbent Media Officer for the second four-year term.
  - 2.5. *Nominations.* The Board shall seek nominations for a new appointment six months before the second and final four-year term is due to end.
3. **The Role.** The Media Officer shall work closely with the Communications Group and the Communications Manager.
  - 3.1. *Communications Group.* The Media Officer shall be a member of the Communications Group, by virtue of appointment.
  - 3.2. *Media Enquiries.* The Media Officer shall be responsible for responding to inquiries from the media when an official position or statement requires to be made on behalf of the Church.
    - 3.2.1. He shall do so in consultation with the Communications Manager in the first instance, and with the Communications Group as required.
    - 3.2.2. He shall also consult with the Chairman of the Board of Trustees, the Chair of the Communications Group, the Chief Executive Officer, and the Principal Clerk when the response to the enquiry bears upon the name and reputation of the Church.
    - 3.2.3. He may refer to people with suitable expertise or knowledge within the Church before responding to enquiries and, to this end, in consultation with the Communications Group, shall keep an up-to-date list of those who may be consulted on a variety of issues.
    - 3.2.4. He will work and consult with the Public Engagement Coordinator in all matters regarding public engagement.
  - 3.3. *Legal & Disciplinary Matters.* The Media Officer shall also be responsible for making public statements, and responding to enquiries, on any matters of a legal or disciplinary or other sensitive nature in consultation with the Communications Group.
    - 3.3.1. He shall consult with, and have the approval of, the appropriate Church Court, Officer, or body before issuing any response or statement.
    - 3.3.2. He shall also consult with the Moderator, the Principal Clerk of Assembly, the Chairman of the Board of Trustees, and the Chief Executive Officer before finalising a response or statement on such matters.
4. **Expenses.** The expenses of the Media Officer in fulfilling the duties of the post shall be met out of the Board of Trustees budget, on application to the Chief Executive Officer.

5. **Repeals.** The General Assembly repeal Act 2, Class 2, 2008.

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**Act 5 – Loyal and Dutiful Address**

Number 4 of Class 2

**Category:** *General Assembly*

*Tuesday 23rd May 2023*

The General Assembly called for the Report of the Committee appointed to prepare a Loyal and Dutiful Address to Her Majesty the Queen, which was given by the Moderator. The Report was adopted and in accordance therewith, the address was agreed to and appointed to be duly signed and transmitted to the Secretary of State for Scotland with a letter from the Clerk.

May it please Your Majesty.

We, the Ministers and Elders of the Free Church of Scotland, met in General Assembly on the 22nd day of May 2023, humbly offer Your Majesty the expression of our continued loyalty to Your Majesty's Person and Throne and to the Constitutional Monarchy of which you are the honoured Head and Representative.

We joined with the nation in celebrating the Platinum Jubilee celebrations of Her Majesty, the Queen, over the weekend of June 2 to June 5, 2022, recognising the incomparable achievements of a reign spanning eight decades.

We joined with the nation in mourning the death of Her Majesty the Queen on September 8, 2022. We are grateful to Almighty God for Her Majesty's long reign, unstinting service, wise counsel, and inspiring example. Her Majesty's Christian character and testimony was evidenced in her life and articulated in her words.

We continue to express our sincere and prayerful sympathies to Your Majesty, praying that the God of all consolation will grant to Your Majesty, and all of the Royal family, his own continued comfort and strength. May Your Majesty continue to know and experience that 'the Eternal God is your refuge and underneath are the everlasting arms.'

We join with the nation in heartily congratulating Your Majesty on the occasion of Your Majesty's coronation on May 6, 2023. We pray that your Majesty and Her Majesty the Queen may enjoy good health and long life and that your reign may be characterised by harmony, peace, and prosperity. We earnestly and regularly pray that your Majesty may be given much wisdom and grace to discharge your many duties faithfully and joyfully.

We pray for Your Majesty's Parliaments in Westminster and Holyrood, committing to our Great God, the Prime Minister and the First Minister, and their respective Governments, in the many responsibilities that devolve upon Your Majesty's servants at home and abroad.

We pray for the Commonwealth and the 56 nations represented therein. We pray that the bonds of shared history and mutual affection would be deepened and strengthened. We pray that Your Majesty, as Head of the Commonwealth, would continue to foster constructive and harmonious relations between nations which have a combined population of over 2.5 billion people.

We pray for Your Majesty's armed forces serving at home and abroad. We give thanks for the dedication and sacrifice both present and past of soldiers, sailors, airmen, and marines who have secured and safeguarded the freedoms we enjoy today. We remember in our prayers all who have lost loved ones, and those who have suffered injury in mind and body. We thank Almighty God for the work of Your Majesty's Chaplains to the Armed Forces, and the ministry of the Soldiers and Airmen's Scripture Readers Association.

We are grateful to God for the measure of peace, security, and stability that we enjoy as a nation, but we are very much aware that throughout this world, warfare, oppression, and want are the daily experience of countless millions. We pray that the words of Jesus, himself the Prince of Peace, might continue to find fulfilment both here and abroad, "The Spirit of the Lord is on me, because he has anointed me to proclaim good news to the poor.

He has sent me to proclaim freedom for the prisoners and recovery of sight for the blind, to set the oppressed free, to proclaim the year of the Lord's favour."

Your Majesty, as Ministers and Elders of the Free Church of Scotland, be assured that we pray regularly for Your Majesty's person, family, and governments. We commit ourselves and our congregations to do so willingly and as we are encouraged to do so by God's Word.

We give thanks to God for our Saviour, Jesus Christ, and our shared faith. 'The Lord bless you and keep you, the Lord make his face shine on you and be gracious to you; the Lord turn his face toward you and give you peace.'

So pray Your Majesty's most faithful subjects, the Ministers and Elders of the Free Church of Scotland, in General Assembly convened.

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## Act 6 – Cooperative Agreement with Mission to the World

Number 5 of Class 2

**Category:** *Mission & Ministry*

*Tuesday 23rd May 2023*

The General Assembly, desiring to revise and update the terms of the Cooperative Agreement with Mission to the World set out in Act 34, Class 2, 2006, enact and ordain as follows:

1. The General Assembly welcome the continued cooperation of Mission to the World (MTW) workers with congregations of the Free Church of Scotland and express their gratitude for over twenty years of fruitful cooperation.
2. The General Assembly receive and adopt the Cooperative Agreement as drawn up by the Mission Board in consultation with the MTW Regional Director of the UK.

### **Agreement for Cooperation and Relationship between the Free Church of Scotland of Scotland and Mission to the World of the Presbyterian Church in America**

#### **PREAMBLE**

**Whereas** we are churches sharing the same biblical and theological roots, Reformed heritage, and confessional standards, namely the Westminster Confession of Faith.

**Whereas** the Lord Jesus Christ has commissioned his Church with the words: “Go into all the world to preach the Good News to all creation,” (Mark 16:15) “and you will be my witnesses in Jerusalem, and in all Judea and Samaria and to the ends of the earth” (Acts 1:8), we reaffirm our missionary calling.

**Whereas** we are motivated by the glory of God in the extension of his Church and Kingdom through pointing people to Christ as he is found in the Gospel.

**Whereas** our current cultural and moral climate present to us great needs, challenges and opportunities that can only be resolved in relation to Christ and his Gospel.

**Whereas** we are not able to complete the great task of proclaiming the Gospel and expanding the Church of the Lord Jesus Christ in an isolated, unilateral, and self-sufficient way but rather as Churches united in one cause.

**Whereas** we recognise, value, and celebrate our different cultural, national, ethnic, and historical identities.

**Whereas** we respect the integrity, jurisdiction and policies of our respective Churches.

**Whereas** we desire to help, support, encourage and stimulate each other to love and serve Jesus Christ in obedience to the Great Commission.

For that reason, we affirm together the obligation of the Great Commission in its application to the life of our Churches today and enact the following:

#### **PARTNERSHIP AGREEMENT**

1. **Purpose.** The purpose of this agreement is to facilitate cooperation in mission using the joint resources of the Free Church of Scotland and Mission to the World (MTW) of the Presbyterian Church in America (PCA) in Scotland. Mission opportunities exist in church planting, church development, and in both administrative and diaconal support.

#### 2. **Application – General**

2.1. There shall be quarterly meetings held between the Mission Director of the Free Church of Scotland (hereinafter referred to as “Mission Director”) and the MTW Regional Director of the UK (hereinafter referred to as “Regional Director”). Each meeting shall include discussion of missional opportunities within the Free Church and missionary availability within MTW. The Mission Director shall report on these meetings to the Mission Board.

2.2. The Mission Board shall make each Presbytery of the Free Church of Scotland aware of the potential for MTW partnership on an annual basis.

2.3. The Mission Director and Regional Director shall maintain an up-to-date list of congregations that are interested in or may benefit from MTW partnership.

- 2.4. The initiation of a specific placement of a prospective MTW worker may be triggered by:
- 2.4.1 The Regional Director or MTW Team Leader receiving notice of a prospective MTW worker's interest in serving with the Free Church of Scotland.
- 2.4.2 The Mission Director and/or Church Planting Director approaching a presbytery or congregation regarding the availability of a prospective MTW worker.
- 2.4.3 A congregation contacting the Mission Director to request a prospective MTW worker.

### **3. Application – Specific**

- 3.1. The Regional Director shall conduct an initial interview with any prospective MTW worker who is interested in partnering with the Free Church of Scotland to assess his/her spiritual gifts, ministry interests, calling, and potential compatibility with the Free Church.
- 3.2. If the Regional Director determines the prospective MTW worker to be a potentially suitable candidate, he shall inform the Mission Director, who may conduct a subsequent interview to further ascertain his/her spiritual gifts, ministry interests, calling, and compatibility.
- 3.3. Upon the Mission Director's approval, he and the Regional Director shall select a congregation(s) who may benefit from the placement of this prospective MTW worker.
- 3.4. The minister(s) of any selected congregation(s) shall communicate with the prospective MTW worker (via video conference, email, or other appropriate means) in order for assess the prospective MTW worker and share specific ministry needs and opportunities.
- 3.5. If a minister(s) and prospective MTW worker are interested in pursuing a potential partnership, an in-person pre-commitment visit to the congregation(s) shall be arranged with the approval of the Mission Director and Regional Director. It is highly recommended that the prospective MTW worker visit more than one congregation during his/her visit.
- 3.6. Following an in-person visit, if a minister and prospective MTW worker agree to future partnership, an initial written agreement shall be made by both parties, which shall include a preliminary list of roles and responsibilities to be submitted to the Mission Director and Regional Director.
- 3.7. A prospective MTW worker shall receive a field invitation upon the agreement of the local minister, Mission Director and Regional Director.
- 3.8. The Mission Director shall be responsible for notifying the Free Church Compliance Officer of the field invitation. The placement congregation will write to the Compliance Officer requesting visa sponsorship. The Compliance Officer will guide the placement congregation and the MTW worker through the process.
- 3.9. The prospective MTW worker shall be responsible for completing MTW's approval process prior to coming to the field. He/she shall provide quarterly progress updates to the Mission Director and Regional Director regarding his/her support raising and estimated date of arrival.
- 3.10. It is expected that the support-raising process shall be completed within twenty-four (24) months of the field invitation.

### **4. Oversight and Accountability**

- 4.1. The MTW Worker shall be under the legal and administrative oversight of MTW.
- 4.2. The PCA church court having oversight for the MTW Worker shall be kept informed concerning the worker's training and work. Such court will maintain basic oversight for the worker's doctrine and morals.
- 4.3. The MTW Worker shall, at all times, abide by the MTW Personnel Code of Conduct. Any misconduct shall be reported to the MTW Safeguarding Manager.
- 4.4. MTW shall maintain responsibility for taking disciplinary action against any MTW worker guilty of misconduct, up to and including termination and, where appropriate, referral to PCA church courts and law enforcement agencies.
- 4.5. The MTW Worker shall submit an annual evaluation in June of each year to the Mission Board, which shall include, but not be limited to, a personal assessment of his/her partnership, changes in his/her roles and responsibilities, ministry successes and struggles, and future ministry goals.
- 4.6. If service is terminated by the MTW Worker outwith the agreed term of service, a notice period of one (1) month shall be given.
- 4.7. The MTW Worker shall comply with all terms and requirements set by the UK Visa and Immigration department.

## 5. Finance

5.1 The MTW Worker shall be responsible for raising and maintaining all required financial support in keeping with all relevant visa requirements and MTW policies and guidelines.

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### Act 7 – Assistant Minister at Bon Accord

Number 6 of Class 2

**Category:** *Mission & Ministry*

*Tuesday 23rd May 2023*

The General Assembly receive the Petition of the Presbytery of Edinburgh and Perth regarding the appointment of an Assistant Minister to the congregation of Bon Accord Aberdeen, and, noting the recommendation of the Mission Board, grant its crave. They grant permission to the congregation of Bon Accord to appoint an Assistant Minister in accordance with the terms of Act 18, Class 2, 2013, anent Assistantships, with such permission to expire at the 2025 General Assembly if no appointment has been made.

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### Act 8 – Assistant Minister at Downvale

Number 7 of Class 2

**Category:** *Mission & Ministry*

*Tuesday 23rd May 2023*

The General Assembly receive the Petition of the Presbytery of Glasgow and Argyll regarding the appointment of an Assistant Minister to the congregation of Downvale and, noting the recommendation of the Mission Board, grant its crave. They grant permission to the congregation of Downvale to appoint an Assistant Minister in accordance with the terms of Act 18, Class 2, 2013, anent Assistantships, with such permission to expire at the 2025 General Assembly if no appointment has been made.

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### Act 9 – Assistant Minister at Smithton

Number 8 of Class 2

**Category:** *Mission & Ministry*

*Tuesday 23rd May 2023*

The General Assembly receive the Petition of the Presbytery of Inverness, Lochaber and Ross regarding the appointment of an Assistant Minister to the congregation of Smithton and, noting the recommendation of the Mission Board, grant its crave. They grant permission to the congregation of Smithton to appoint an Assistant Minister in accordance with the terms of Act 18, Class 2, 2013, anent Assistantships, with such permission to expire at the 2025 General Assembly if no appointment has been made.

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### Act 10 – Christian Education Group

Number 9 of Class 2

**Category:** *Ministry & Mission*

*Tuesday 23rd May 2023*

1. The General Assembly direct the Mission Board to establish a permanent Christian Education Group as a sub-group of the Board.

7.1. *Remit.* The remit of the sub-group will be:

(1) To discuss and respond to ongoing developments in Education in Scotland, particularly as it relates to Christian worldview, Relationship, Sexual Health, and Parenting Education (RSHP) and other issues of morality in the Curriculum for Education in Schools and early childhood centres in Scotland.

(2) To explore partnerships with other organisations in Scotland who are engaged in Christian education.



(3) To continue to equip and support local parents and churches to engage with Local Authorities, schools and early childhood centres in relation to these issues and support parents who have opted for home education.

(4) To support Christian teachers and staff in state schools and early childhood centres.

(5) To educate and inform the wider Church of what is currently being taught in Scottish Schools and early childhood centres.

7.2. *Membership.* The membership of the sub-group will be appointed by the Mission Board. It will include at least two Ministers, two Elders and two additional members of the Free Church of Scotland and to use such advisers as they deem helpful from time to time. Where possible, at least some of the members of the sub-group should be either teaching practitioners or those who have recent experience of delivering the Health and Wellbeing and the RSHP elements of Curriculum for Excellence in Scottish schools.

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### **Act 11 – Psalmody and Praise Committee**

Number 10 of Class 2

**Category: Governance**

**Tuesday 23rd May 2023**

1. The General Assembly discharge the Psalmody and Praise Committee as currently constituted and thank its members for their services to the Church. They instruct the Board of Trustees to make suitable arrangements to ensure that all correspondences relating to copyright for items of praise, and that the sale of printed praise resources, are timeously and effectively managed.

2. The General Assembly amend Act 6, Class 2, 2014 anent the Modification of the Structure of Boards and Committee, as currently amended, to the extent that Paragraph 1.6 is deleted.

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### **Act 12 – Legal Action Review Group**

Number 11 of Class 2

**Category: Governance**

**Wednesday 24th May 2023**

1. The General Assembly establish a Legal Action Review Group to review instances where legal action is taken against an Office-bearer of the Church in connection with their Office, in which religious liberty and the spiritual independence of the Church may be the central issue.

1.1. *Membership.* The Review Group will comprise the following: The Principal of ETS, the Principal Clerk, the Chairman of the Board of Ministry, the Chief Executive Officer, with powers to involve others with necessary expertise and experience on a case-by-case basis. A quorum shall be three members of the Review Group.

1.2. *Remit.* The Review Group will determine what support the Church can offer to Office-bearers and their families. They will assess cases on the basis of agreed criteria and will decide if the Church can provide wider public support in addition to normal pastoral care. The Group will keep the criteria under review, with any changes being approved by the Board of Trustees.

2. The General Assembly direct that an Office-bearer facing potential legal action connected with their office should inform the Clerk of the Presbytery as soon as possible. They instruct the Presbytery Clerk to report the matter immediately to the Principal Clerk and CEO. They instruct the Principal Clerk and the CEO to arrange a meeting of the Review Group as soon as practically possible after receipt of the notification.

3. The General Assembly declare that the Review Group may direct Office-bearers to the services provided by other organisations who share our theological convictions and who have the necessary experience and expertise in this area.

4. The General Assembly empower the Board of Trustees to enter into a Memorandum of Agreement with partner organisations who may support the Church in dealing with any potential legal action against Office-bearers.

5. The General Assembly instruct the Board of Ministry to include, in its ongoing professional development programme for Ministers, seminars which cover responsible evangelism, preaching and discipleship that is both faithful and sensitive in a secular society where the Church is under particular scrutiny.

6. The General Assembly instruct the Assembly Clerks' Office to circulate the Committee's report and the Assembly finding to all Ministers and Session Clerks.

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**Act 13 – Professor-Emeritus John McIntosh**

Number 12 of Class 2

**Category:** ETS

**Tuesday 23rd May 2023**

The General Assembly note that the designation "Professor-Emeritus" was not conferred on Rev. Professor Dr John McIntosh at the point of his retirement, as had been the practice previously with those who had been Professors of Edinburgh Theological Seminary. The General Assembly confer the designation "Professor-Emeritus" on Professor John McIntosh, effective from the rising of the Assembly.

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**Act 14 – Professor-Emeritus John Angus Macleod**

Number 13 of Class 2

**Category:** ETS

**Tuesday 23rd May 2023**

The General Assembly note that the designation "Professor-Emeritus" was not conferred on Professor John Angus Macleod at the point of his retirement, as had been the practice previously with those who had been Professors of Edinburgh Theological Seminary. The General Assembly confer the designation "Professor Emeritus" on Professor John Angus Macleod from the rising of the Assembly.

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**Act 15 – Dr Zachary Purvis**

Number 14 of Class 2

**Category:** ETS

**Tuesday 23rd May 2023**

1. The General Assembly note that Dr Zachary Purvis has completed the course of study prescribed for him by the Board of Ministry and that he has applied to be taken on examination for licence to preach the gospel by the Presbytery of Edinburgh and Perth.

2. The General Assembly note that the requirement of Act 26, Class 2, 2014, that Course Organisers and Core Lecturers at ETS must be Office-bearers in a church which, to the satisfaction of the Seminary Board, exercises biblical discipline in matters of heresy or immorality, was inadvertently overlooked when the Board appointed Dr Purvis to the post of Course Organiser of Church History, and when the Assembly approved the appointment in Act 14, Class 2, 2022. They declare that the appointment of Dr Purvis as Course Organiser is on a temporary basis until such time as he has successfully completed his examination for licence to preach the gospel and available to be called to a full-time, permanent appointment as Course Organiser.

3. The General Assembly amend Act 26, Class 2, 2014, to the extent that the following is inserted as new Paragraph 6.6 with subsequent paragraphs renumbered 6.7 to 6.15: 'If the Course Organiser is a Probationer in the Free Church of Scotland, he will be ordained to the ministry and inducted to the position by the Presbytery of Edinburgh and Perth, after following the procedure on the analogy of a call to a pastoral charge, retaining rights as in Paragraph 6.5 above.'

4. The General Assembly instruct the Presbytery of Edinburgh and Perth to ordain Dr Zachary Purvis to the office of the holy ministry and induct him to the position of Course Organiser in Church History at ETS as soon as possible after his successful completion of the examination for trials for licence and becoming a Probationer.

## **Act 16 – Board of Ministry Officer/Coordinator**

Number 15 of Class 2

**Category: Governance**

**Wednesday 24th May 2023**

The General Assembly approve the appointment of a Board of Ministry Officer/Coordinator to support the Board of Ministry in fulfilling all aspects of its remit. They direct that the initial appointment be on a part-time basis and for a two-year period with the appointment to be reviewed by the Board of Ministry in consultation with the Board of Trustees before the end of the two-year term. They instruct the Board of Ministry to work with the Chief Executive Officer to fill this Central Office Staff Team position.

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## **Act 17 – Membership of the ETS Board**

Number 16 of Class 2

**Category: Governance**

**Wednesday 24th May 2023**

The General Assembly seeking to clarify the role of *ex officio* members on the ETS Board, and seeking to ensure an equal balance between Ministers and Elders in the ordinary membership of the Board, revise Paragraph 4.1 of Act 6, Class 2, 2014, as currently amended, to read as follows:

4.1. *Membership*. Ten members including the ETS Principal, one member of the ETS Senate, the Chairman of the Board of Ministry, and the President of the Students' Representative Council, all *ex officio*. The ordinary membership shall comprise three Elders and three Ministers appointed by the General Assembly for a four-year term renewable for one further term of four years. Elders appointed to the ETS Board shall have suitable qualifications or experience in education, preferably tertiary education, or in the administration or promotion of education. The Chairman shall be appointed from the ordinary membership of the Board by the General Assembly for a four-year term, renewable for one further term of four years. The Board may appoint advisers from time to time as deemed expedient. The quorum shall be three ordinary members of the Board.

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## **Act 18 – Public Engagement Coordinator**

Number 17 of Class 2

**Category: Governance**

**Wednesday 24th May 2023**

1. The General Assembly note the need for more clarity in the appointment of the Public Engagement Coordinator. They amend Paragraph 1 of Act 21, Class 2, 2021 regarding Public Engagement to read as follows:

1. The General Assembly create the position of Public Engagement Coordinator. They declare that the Coordinator will be responsible for leading the Church's public engagement.

1.1. The Coordinator will be appointed for a four-year term by the General Assembly on the recommendation of the Board of Trustees.

1.2. The appointment of the incumbent Coordinator may be extended by the Board of Trustees for a further four-year term.

1.3. When a new person is being appointed to the post, the Board of Trustees will report to the General Assembly on the appointment process with a recommendation.

2. The General Assembly declare that the first four-year term of Rev. Stephen Allison, the current Public Engagement Coordinator, commenced at rising of the 2021 General Assembly.

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## **Act 19 – Review of Practice and Procedures**

Number 18 of Class 2

The General Assembly thank the members of the Project Management Group for their service and dedicated effort in bringing forward revised and improved procedures for the discipline of Officer-bearers in the Church. They approve the Board's decision to bring the ongoing work of reviewing the practices and procedures of the Church under the Assembly Clerks' Office. They dissolve the Project Management Group and repeal Act 3, Class 2, 2018.

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**Act 20 – Church Planting**

Number 19 of Class 2

The General Assembly, recognising the responsibility of the Church to the whole of Scotland, and being aware that there are many large areas and populations not served by the Free Church or by any other denomination fully committed to the preaching of the gospel and Reformed standards, resolve to plan and implement a programme of Church Planting in such areas. They revise the existing Church Planting regulations and enact and ordain as follows:

**A. ROLES AND RESPONSIBILITIES**

The Mission Board will work with the local Presbytery and Kirk Sessions in implementing its strategy for church planting and evangelism, recognising their distinctive roles and working together to secure agreement and harmony in the church planting and evangelism programme.

**1. The Initiative.** The initiative for a new church plant may come from any one of the following or from a combination of them after discussion:

- 1.1. The Presbytery.
- 1.2. The Mission Board.
- 1.3. The local Kirk Session.
- 1.4. An individual Church Planter.

**2. The Presbytery.** The Presbytery has responsibility for general oversight and advancement of gospel ministry and evangelism within its bounds, including church planting.

2.1 *Ongoing Review.* Presbyteries will keep the local situation and opportunities for church planting under review as part of its ongoing review of strategy for ministry within its bounds.

2.2 *Application.* When the Presbytery identifies an area which is considered to present an opportunity for a church planting ministry, it will apply to the Mission Board which will assist in establishing the Church Plant.

**3. The Mission Board.** The Mission Board will identify strategically important locations in Scotland for new Church Plants within the Church's overall mission strategy.

3.1 *Church Plants.* The Board is empowered to approve new church planting projects and appoint Church Planters.

3.2 *Presbyteries.* The Board will consult with the local Presbytery and will bring forward firm proposals for establishing a Church Plant with the approval of the Presbytery.

**4. The Kirk Session.** Kirk Sessions shall also seek to identify areas which present an opportunity for the expansion of gospel ministry and the planting of churches.

4.1 *Application.* When a Kirk Session has decided on a church planting project, they will make an application to the Mission Board, requesting that a Church Plant be established.

4.1.1. The application will come to the Mission Board with the approval of the Presbytery.

4.2 *Mission Board.* The Mission Board will support the Kirk Session in the preparation of the application.

4.2.1. If the application is successful, the Church Plant will be formally established by the Mission Board.

4.2.2. The Board will assist the Kirk Session in identifying and recruiting a Church Planter for the proposed Church Plant.

**5. Existing Congregation.** A Church Plant may be established to replace an existing congregation when, after completion of the requisite financial review, and in consultation with the congregation, the Presbytery and the Mission

Board conclude that it has become financially non-viable and is in terminal decline. In such situations, the following will apply:

5.1. *Dissolution.* The Mission Board will report on the outcome of the review to the General Assembly or its Commissions, requesting that the existing congregation be dissolved.

5.2. *Charitable Status.* The legal entity, charitable status, and registration of the existing congregation will be retained on the dissolution of the congregation.

5.3. *Trustees.* The Presbytery will appoint trustees, from the former congregation as far as possible, to manage the assets of the congregation and to carry out the duties and responsibilities of Charity Trustees until the Church Plant is established.

5.4. *Church Plant.* Once the General Assembly has dissolved the existing congregation, the Mission Board, in conjunction with the Presbytery, will designate the location as a Church Plant.

5.4.1. When the previous congregation has been replaced by a Church Plant in this way, the ministry will come under the terms of Church Planting set out in this Act.

5.5. *Review.* The Mission Board will review the situation each year and if a Church Plant is not established or comes to an end, will arrange for the legal entity and the charitable status of the original congregation to be ended.

5.6. *Resumption.* If the Church Plant is successful, the new congregation will be allowed to assume the legal entity and charitable status of the original congregation. Where appropriate the new congregation will be allowed to change the name of the registered charitable body to more accurately reflect the nature of the new congregation.

**6. Church Planter.** The Church Planter will be a Probationer or an ordained Minister of the Free Church of Scotland.

6.1. *Interview.* When agreement has been reached regarding a suitable appointment, the parent Kirk Session or the appointed representatives of the Presbytery, with the support of the Mission Board, will proceed to interview the preferred candidate, giving due regard to the call of the Church to such an appointment.

6.2. *Assessment.* All Church Planters will be required to complete the Mission Board Church Planter Assessment prior to their Induction to the work and the results of the Assessment shared with the Kirk Session of the parent congregation.

**7. The Documents.** The Kirk Session or Presbytery will delegate to the proposed Church Planter and the Advisory Group the responsibility for producing the following documents:

7.1. *Development Plan.* A Development Plan which outlines the vision, model, and method of church planting, with a general strategy for the progress of the Plant.

7.2. *Financial Plan.* A Financial Plan showing budgeted costs and all confirmed and potential sources of income for the first five years of the Plant.

**8. Application.** The Development Plan and the Financial Plan will provide the basis of church planting applications which will come to the Mission Board with the approval of the Presbytery.

## **B. ESTABLISHING A CHURCH PLANT**

When there is conjoint agreement between the Mission Board, the Presbytery and/or the Kirk Session, as to a location for a Church Plant, the following steps will be taken to establish a Church Plant:

**1. Oversight.** A Church Plant will normally be established under the oversight of the Kirk Session of an existing congregation typically within the Presbytery.

1.1. **Kirk Session.** When the initiative for a Church Plant arises from the Presbytery or from the Mission Board, they shall identify a suitably located and resourced Kirk Session who will take immediate oversight of the work.

1.1.1. *Core Group.* The Kirk Session will act as parent to the Church Plant and may provide a core group who form the nucleus of the Church Plant in its initial stages.

1.1.2. *Representation.* The parent Kirk Session will appoint two of its members with direct responsibility for the Church Plant. One of the representatives shall normally be the Church Planter.

1.1.3. *Church Plant Elders.* Suitable men who are members of the Church Plant can be elected by the parent Kirk Session as Elders of the Church Plant. They will be members of the parent congregation Kirk Session but will have responsibilities and locus in matters pertaining to the Church Plant only.

1.1.4. *Seat.* Once inducted to the work the Church Planter will be granted a seat on the Kirk Session of the parent congregation.

1.1.5. *Role.* The parent Kirk Session will provide necessary pastoral and ministry support including pastoral care. They will have responsibility for making arrangements for administering the Sacraments and for maintaining the records associated with the general oversight of a Kirk Session.

1.2. **Presbytery.** In exceptional circumstances where it has not been possible to identify a suitably resourced Kirk Session to act as the parent congregation, the Church Plant will come under the direct oversight of the Presbytery.

1.2.1. *Kirk Session.* The Presbytery will appoint at least two Elders from within its bounds to form a Kirk Session with the Church Planter with responsibility for the oversight of the Church Plant.

1.2.2. *Role.* The Kirk Session so appointed will carry out the normal duties of a Kirk Session including that set out in 1.1.5. above.

1.2.3. *Church Plant Elders.* The Kirk Session may carry out an election of Elders from among men who become members of the Church Plant.

1.3. **Reporting - General.** The Church Planter shall report to the Presbytery at least bi-annually, one of which will be in the month of January. The reports to the Presbytery in all cases shall be forwarded by the Presbytery to the Mission Board so that an update can be given in the Board's report to the General Assembly.

1.4. **Advisory Group.** In all cases, an Advisory Group will be appointed by the Mission Board in conjunction with the Presbytery to assist in the ongoing oversight and management of the Church Plant.

**2. Church Planter Appointment.** The Church Planter will be appointed to lead the work of the Church Plant in its initial stages, to further assess the potential for growth in the area, and to develop a strategy for ministry in the light of the local situation.

2.1 *A Probationer.* If the preferred candidate is a Probationer, the Presbytery will proceed to arrange for trials for ordination. On the successful completion of the trials, he will be ordained and inducted to the Church Plant and granted a seat in the Presbytery.

2.2 *Ordained Minister.* If the selected Church Planter is an ordained Minister in a pastoral charge, or in another full-time ministerial post, the invitation to take up the appointment in the Church Plant will be processed through his Presbytery in a manner analogous to a Call.

2.3 *Presbytery.* The Church Planter will be granted a seat in the Presbytery on his induction and appointment to the Church Plant.

2.4 *Training.* The Church Planter will participate in the Board's Church Planting training programme that covers all the building blocks necessary to plant a successful church whilst maintaining a focus on the gospel, the Church Plant, and the local context.

**3. The Church Planter Term.** The Church Planter will be appointed for a five-year term.

3.1. *An Extension.* On the expiry of the initial five-year term, the appointment may be extended for a second and final five-year period with the joint approval of the Kirk Session, the Presbytery, and the Mission Board.

3.2. *Ineligibility.* During the first five years of his appointment, the Church Planter will not be eligible for call elsewhere.

3.3. *Focus.* In order that he may devote his whole time to the work, the Minister appointed shall not accept extra ecclesiastical work or appointments, or appointments which require absence from the designated area of his ministry, in the first five years of his appointment, except with the express written consent of the Kirk Session, the Presbytery, and the Mission Board.

3.4. *Termination of Appointment.* Should the appointment be terminated at any stage, the procedure set out in Section C, Paragraph 4.2.3. will be followed.

3.5. *Resignation.* If the Planter resigns from his post, the Mission Board will work with the parent congregation to make a new appointment.

**4. Assistant Church Planter.** In exceptional circumstances, an Assistant Church Planter may be appointed to the Project to assist in the achievement of the aims of the Project.

4.1. *Status.* The Assistant Planter will be an ordained Minister or a Probationer. He will be granted a seat in the Presbytery on his induction to the Church Plant.

4.2. *Exceptional Circumstances.* The exceptional circumstances in this case will be the considered scale of the initial challenge of establishing the Church Plant or the increased scale of the challenge of developing the ministry of the Church Plant which were not initially apparent.

4.3. *Appointment.* The Assistant will be appointed according to the process set out in Paragraph 2 above, and with the approval of the Mission Board.

4.4. *Funding.* The Mission Board will ensure that funding is in place to cover the cost of appointing an Assistant before approving the appointment.

4.5. *Term of Appointment.* The Assistant Church Planter will be appointed for a maximum five-year term but the end of his term to coincide with the end of the five-year term of the Church Planter. This appointment may be renewed for a second five-year term in line with the progress of the overall Project.

4.5.1. The Assistant Church Planters' appointment will be reviewed at the end of the first three years of each five-year term.

**5. Mission Board.** The Mission Board will provide support for the Church Planter and the Assistant Planter, where such is appointed, on an ongoing basis.

5.1. *Training.* The Board will provide suitable training for all Church Planters supported by suitable church planting resources identified by the Board in consultation with church planting partners.

5.2. *Coaching.* The Board will also provide a Coach who will work with the Church Planter to set and meet personal, relational, and missional goals that will enable him to plant and grow a healthy church.

5.3. *Funding.* The Board will support the Church Planter in fundraising efforts as needed.

**6. Additional Workers.** The Mission Board may appoint additional workers to the Church Plant to assist in achieving the aims and objectives of the Development Plan.

6.1. *Appointment.* The additional workers will be appointed under the arrangements for Ministry Support Workers.

6.2. *Term of Appointment.* The additional members will be appointed for up to two years, renewable for additional two-year terms as the work demands. The Mission Board shall approve all appointments and renewals.

6.3. *Funding.* The Mission Board will ensure that funds are in place to cover the costs of each additional worker before approving the appointment.

6.4. *Presbytery.* For the avoidance of doubt, additional workers who are ordained Ministers or Probationers, will not be granted a seat in the Presbytery.

## **C. CHURCH PLANT GOVERNANCE**

**1. Governance.** Governance of the Church Plant will be undertaken by the Deacons' Court of the parent congregation who will fulfil the role of local charity trustees until such time as the Church Plant is established as a pastoral charge with its own charity registration and status.

1.1. *Arrangements.* All the financial and governance arrangements for the Church Plant will be agreed, on a per-case basis, by the Board in consultation with Kirk Session and/or the Presbytery, the Chief Executive Officer, and the Finance Manager, and any other interested parties.

1.2. *Approval.* The Chief Executive Officer and the Finance Manager will confirm that they are satisfied with the financial and governance arrangements before the Church Plant is formally established.

1.3. *Presbytery.* In the absence of a suitable resourced parent congregation, arrangements will be made to ensure governance under the local Presbytery.

1.3.1. When the governance is undertaken by the Presbytery, the conditions in Paragraphs 1.1 and 1.2 above will apply.

1.3.2. Where the Presbytery is unable to provide good financial governance, the Presbytery will consult with the CEO, the Finance Manager, and the Mission Board, to make whatever arrangements are considered necessary to secure good financial governance and compliance with the requirement of the charities' regulator.

**2. Ministry Plan.** A detailed Ministry Plan for the Church Plant will be developed by the Church Planter and Core Group in the first year.

2.1. *Basis.* The Development Plan and the Financial Plan required in Paragraph A.7.1 and A.7.2. above, respectively, will form that basis of the Ministry Plan.

2.2. *Term of the Plan.* The Plan will cover the first five years of the Church Plant.

2.3. *Content.* The Plan will include a clear mission and vision statement, core values, measurements and accountability, and funding streams and sources. It will also include a detailed strategy for ministry designed to suit the local situation.

2.2.1 The plan will also show clear aims and objectives and the key activities of the Church Plant including a leadership development programme which will ensure that the aims and objectives are achieved under the blessing of God.

2.4. *Reporting.* The Church Planter will report back to the Kirk Session at least quarterly.

2.5. *Review.* The Plan will include the review process to be followed at the end of the five-year term.

2.5.1. It will also include a formal annual review in order to monitor the ongoing ministry.

2.6. *Mission Board.* The Church Planter will engage the support and assistance of the Mission Board in formulating the Ministry Plan.

**3. Financial Plan.** The financial situation of the Church Plant, set out in the five-year Financial Plan according to Paragraph A.7.2. above, will be monitored by the Deacons' Court of the parent Congregation and the Mission Board in consultation with the Finance Manager.

3.1. *Six-monthly Update.* At the end of June annually, the Treasurer of the parent congregation will provide an update on the financial situation of the Church Plant for the Deacons' Court and the Mission Board, in consultation with the Church Planter.

3.2. *Annual Review.* At the end of the calendar year, the Treasurer of the parent congregation will provide an update on the financial situation of the Church Plant, in consultation with the Church Plant, for the Deacons' Court and the Mission Board.

3.2.1. *Budget.* The Church Planter will provide a budget to the Deacons' Court of the parent congregation and the Mission Board showing the necessary income to meet the costs for the following year.

3.2.2. *Financially Non-viable.* If at either of these reviews it is clear that the Church Plant is not financially viable, and there is no reasonable expectation that the funds necessary for the continuation of the Church Plant will be forthcoming, the Mission Board will proceed to terminate the appointment of the Church Planter, that of the Assistant Church Planter if appointed, and that of any Additional Workers, in consultation with the Presbytery and the Kirk Session of the parent congregation.

3.2.3. *Termination.* The appointments will be terminated effective three months from the date on which the Board reached its final decision. The Church Planter, and the Assistant Church Planter where such has been appointed, will be paid the stipend for this three-month period. The Board will seek to ensure that there are sufficient funds in the Church Plant accounts to cover the stipend for this period. At the end of the three-month period, the names of the Church Planter, and the Assistant, will be added to the Roll of Ministers Eligible for Call.

3.3. *Finance Manager.* The Finance Manager will examine the six-monthly update and the annual review to assist the Mission Board in monitoring the financial viability of the Church Plant.

3.4. *Presbytery Oversight.* Where the Church Plant is under the oversight and governance of the Presbytery, the requirements of Paragraphs 3.1. to 3.3. will apply but with reference to governance arrangements put in place to fulfil the role of the Deacons' Court.

**4. End-of-term Review.** The Church Plant will be reviewed at the end of the first five-year term. The Kirk Session will commence the review process in consultation with the Presbytery and the Mission Board not later than nine months before the end of the five-year term.

4.1. *Ministry Plan.* The Kirk Session will report on the Ministry Plan showing progress made in the ministry of the Church Plant and highlighting adjustments to the Plan where the ongoing experience of ministry has necessitated such changes.

4.2. *Financial Plan.* The Kirk Session will report on the Financial Plan showing actual income and expenditure for the five-year term in comparison to budgeted income and expenditure for the same period.

4.3. *Updated Ministry Plan.* The review will also include the submission of an updated Ministry Plan for the second five-year appointment along with a budget showing costs and confirmed and potential sources of income for at least the coming three years. A Sustentation Fund Schedule will be submitted to the Mission Board through the Presbytery should it be the case that the Church Plant has developed sufficiently to qualify for the status of a sanctioned charge.

4.4. *Review Outcome.* The Presbytery will consult fully with the Church Plant and the parent Kirk Session before submitting their report with recommendations to the Mission Board.

4.4.1. *New Status.* If the Presbytery reports that the Church Plant has developed sufficiently to meet the requirements for application for the status of a sanctioned charge, and that the ministry plan and financial plan show evidence of good governance, the Presbytery shall report to the Mission Board accordingly with appropriate recommendations in the light of their conclusions.



4.4.2. *A Second Term.* If the Presbytery concludes that the Church Plant has not developed sufficiently to meet the requirements for application for the status of a sanctioned charge or a fully sanctioned charge, but that the work has progressed such that there are encouraging developments justifying continued full-time ministry, and that the ministry plan and financial plan show evidence of good governance, the Presbytery will report to the Mission Board accordingly, recommending that the Minister's appointment be extended for a second and final five-year term.

4.4.3. *Termination.* If the Presbytery concludes that the Church Plant is no longer viable, and that there is insufficient evidence to show that a second five-year term will be successful, they will report to the Mission Board accordingly, recommending that the work be terminated. Should this be the case, the Minister's appointment will be terminated according to the terms and conditions set out in Section C, Paragraph 4.2.3 above.

## **D. A SANCTIONED CHARGE**

**1. Conditions of Application.** The Church Plant applying for the status of a sanctioned charge will meet the following conditions of application:

1.1. *A Development Plan.* The application must be accompanied by a Development Plan showing how gospel ministry is being developed and will be developed in the future. The Development Plan must also show projected income and a financial plan for the sustainability of the current ministerial arrangements and financial viability in the future.

1.2. *Financial Resources.* The Church Plant must be numerically and financially self-supporting and be able to meet the costs of full-time ministry through payment of the Ministry Levy and the Administration and Training Levy.

1.2.1. The application must be supported by evidence of ordinary income equivalent to at least the total of Ministry Levy and the Administration Levy.

1.2.2. The application must be supported by evidence of good financial governance and management.

1.2.3. The application must be accompanied by completed and approved financial reports and statement of accounts for the parent congregation for the previous two years showing income and expenditure for the Church Plant.

**2. The Application.** The Kirk Session of the parent Congregation will meet with the Church Plant at a duly constituted congregational meeting to establish the Church Plant's support for the application. The application will be accompanied by documentation showing that such a meeting took place and that the Church Plant's support has been confirmed.

2.1. *Application.* The Kirk Session shall seek the Church Plant's support for the application to be granted the status of a sanctioned charge.

2.2. *Sustentation Fund Schedule.* The Kirk Session shall seek the Church Plant's agreement regarding the financial commitments of the Sustentation Fund Schedule. The completed Schedule will show the Church Plant's ability to meet the Ministry Levy and the Administration and Training Levy.

2.3. *Ministry.* They shall ascertain if it is the cordial desire of the congregation that the resident Church Planter continue as their Minister. They shall ascertain whether it is the cordial desire that the Elders of the Church Plant currently being members of the Kirk Session of the parent congregation should continue to serve as Elders in the newly sanctioned charge.

2.4. *Presbytery.* Where the Church Plant is under the oversight and governance of the Presbytery, the requirements of Paragraphs 2.1. to 2.3. will apply but with reference to the Kirk Session established as in Paragraph B.1.2. above.

**3. Application Process.** The Church Plant or congregation making application for the status of a sanctioned charge shall do so through the local Presbytery and the Mission Board to the General Assembly or its Commission according to the following steps:

3.1. *Local Process.* The application will follow the process set in Part 1 and Part 2 of Act 1, Class 1, 2018 regarding the Sustentation Fund including the submission of a Sustentation Fund Schedule completed by the congregation and by the Presbytery.

3.2. *A Petition.* The application will include a Presbytery petition addressed to the General Assembly or its Commission requesting that the appropriate status of a sanctioned charge be granted.

3.3. *Mission Board.* The Mission Board shall process the application according to the terms of Act 1, Class 1, 2018 regarding the Sustentation Fund, Part 3. The Mission Board will include the application in its report to the General Assembly or its Commission with a suitable recommendation regarding the request of the congregation and the Presbytery.

3.4. *Documentation.* The application to the Mission Board must be accompanied by relevant extracts of the proceedings of the Kirk Session and its meeting with the congregation, and extracts of the proceedings of the Presbytery.

3.5. *Minister's Appointment.* If the application is successful, and the Church Plant is granted the status of a sanctioned charge, the Minister's appointment will be according to the terms of Act 1, Class 1, 2018 anent the Sustentation Fund, and will be continuous with his original induction to the Church Plant.

3.6. *Kirk Session.* If the Kirk Session of the parent congregation has elected at least two Elders with responsibility for the Church Plant as in Paragraph C.4.2 above, the General Assembly or its Commission will declare the elected Elders to be Elders of the newly sanctioned charge to form a Kirk Session with the Minister.

**4. A Sanctioned Charge.** On being granted the status of a Congregation, the following rules will apply:

4.1. *Kirk Session.* The Congregation will have its own Kirk Session, with at least two members elected from within its own communicant membership or appointed as in Paragraph D.3.6 above, or with the appointment of two Assessor Elders by the Presbytery.

4.1.1. In the situation where the Presbytery appoints Assessor Elders to form a Kirk Session with the Minister, the Session will meet as soon as possible to carry out an election of Elders from the communicant membership of the newly established congregation.

4.1.2. The Kirk Session will also put the following documents in place: Roll of Communicants, Roll of Kirk Session, Roll of Deacons' Court, Baptismal Roll.

4.2. *Deacons' Court.* The Church Plant will have its own Deacons' Courts with members elected from within its own communicant membership.

4.3. *Charitable Status.* On being granted the status of a congregation or sanctioned charge, the Deacons' Court will adopt the Constitution for Deacons' Courts approved by the General Assembly, and the Kirk Session shall call a Congregational Meeting to approve the Constitution before making application to the Scottish Charity Regulator for charitable status. In exceptional circumstances, the Kirk Session may appoint a Finance Committee as an interim measure and adopt the Constitution approved for use by Finance Committees.

4.4. *Consultation.* The Congregation shall consult with the Legal and Compliance Officer at the Church's Central Offices for assistance with the process.

4.5. *Transfer of Assets.* The funds of the Church Plant will be transferred to the new congregation once the registration process with OSCR has been completed. The transfer of buildings will be completed with the assistance of the Legal and Compliance Officer.

## **E. PIONEERING CHURCH PLANTING**

The Mission Board and the Presbytery (or Presbyteries) may agree an initiative to explore pioneering church planting opportunities in a geographical area, under the oversight of the Presbytery, or amongst particular populations, networks of people or people groups.

**1. The Pioneer Planter.** The Pioneer Planter will be an ordained Minister with proven experience in church planting ministry or evangelism.

1.1. *Fixed Term.* The Pioneer Planter will be appointed to the Project for an initial five-year period renewable for a second and final five-year term.

1.2. *Interview.* When agreement has been reached regarding a suitable appointment, the Presbytery, with the support of the Mission Board, will proceed to interview the preferred candidate, giving due regard to the call of the Church to such an appointment.

1.3. *Assessment.* The Pioneer Planter should have completed their full assessment prior to their Induction to the work and the results of the Assessment shared with the Presbytery.

1.4. *Minister in Settled Charge.* If the preferred candidate is in a settled charge or appointment, the invitation to take up the appointment in the Church Plant will be processed through his Presbytery in a manner analogous to a Call.

1.5. *Presbytery.* The Pioneer Planter will be granted a seat in the Presbytery on his induction to the Pioneering Planting Project.

1.6. *Implementation.* The Pioneer Planter will be responsible for ensuring that the Project Plan is implemented in its scope and aims.

1.7. *Reporting.* The Pioneer Planter will report monthly to his Advisory Group, and every six months to the Presbytery and to the Mission Board.

**2. Project Plan.** The Mission Board and the Presbytery will approve a basic Project Plan for the Pioneering Planting Project. The Plan will include the following:

- 2.1. *Ministry Plan.* A Ministry Plan showing the aim and purpose of the initiative with clearly defined goals.
- 2.2. *Workers.* The number of Minister's and workers required to achieve the aims of the Project in the short to medium term.
- 2.3. *Management.* The overall management of the Project showing roles and responsibilities and clear lines of accountability.
3. **Financial Plan.** The application will also be supported by a viable Financial Plan showing all confirmed and potential sources of income for the first three years.
  - 3.1. *Six-monthly Update.* At the end of June annually, the Presbytery Treasurer will provide an update on the financial situation of the Pioneer Planting Project for the Presbytery and Mission Board, in consultation with the Pioneer Planter.
  - 3.2. *Annual Review.* At the end of the calendar year, the Presbytery Treasurer will provide an update on the financial situation, in consultation with the Pioneer Planter, for the Presbytery and the Mission Board.
    - 3.2.1. *Budget.* The Pioneer Planter will provide a budget to the Presbytery and the Mission Board showing the necessary income to meet the costs for the following year.
    - 3.2.2. *Financially Non-viable.* If at either of these reviews it is clear that the Pioneering Planting Project is not financially viable, and there is no reasonable expectation that the funds necessary for the continuation of the Pioneering Planting Project will be forthcoming, the Mission Board will proceed to terminate the appointment of the Pioneer Planter, and that of any Additional Workers, in consultation with the Presbytery and the Kirk Session of the parent congregation.
    - 3.2.3. *Termination.* The appointments will be terminated effective three months from the date on which the Board reached its final decision. The Pioneer Planter, and the Assistant where such as been appointed, will be paid the stipend for this three-month period.
    - 3.2.4. *Funds.* The Board will seek to ensure that there are sufficient funds in the Pioneering Planting Project accounts to cover the stipend for this period.
    - 3.2.5. *Rolls.* At the end of the three-month period, the names of the Pioneer Planter, and the Assistant where such exists, will be added to the Roll of Ministers Eligible for Call. If a member of the Team is a Probationer, his name will be retained on the Roll of Probationers.
  - 3.3. *Finance Manager.* The Finance Manager will examine the six-monthly update and the annual review to assist the Mission Board in monitoring the financial viability of the Pioneering Planting Project.
4. **Assistant Pioneer Planter.** The Presbytery may appoint an Assistant Pioneer Planter to the Project to assist in the achievement of the aims of the Project. The Assistant may be an ordained Minister or a Probationer.
  - 4.1. *Conditions.* The conditions under which an Assistant Pioneer Planter will be appointed will be in line with the conditions for the appointment of an Assistant Church Planter set out in Section B.4 above.
  - 4.2. *Term.* The Assistant Pioneer Planter will be appointed for a maximum five-year term but with the end of his term to coincide with the end of the five-year term of the Pioneer Planter, and with the approval of the Mission Board. This appointment may be renewed for a second five-year term in line with the progress of the overall Project.
  - 4.3. *Appointment.* The process for the appointment of the Assistant Pioneer Planter will follow the process which applies to the Pioneer Planter in Paragraph 1 above with the exception of Paragraph 1.4 when the selected Assistant is a Probationer.
  - 4.4. *Presbytery.* The Assistant Pioneer Planter will be granted a seat in the Presbytery on his induction to the Pioneer Planting Project.
5. **Additional Workers.** The Presbytery may appoint additional workers to the Project to assist in achieving the aims and objectives of the Plan.
  - 5.1. *Ministerial Members.* The additional workers may be ordained Ministers or Probationers. They will be appointed to the Team under the provisions of Act 8, Class 2, 2022 anent Ministry Support Workers with the approval of the Mission Board.
  - 5.2. *Support Workers.* The Presbytery may also appoint support workers to the Team, who are not Ministers or Probationers. The additional support workers will also be appointed according to the terms of the said Act on the employment of Ministry Support Workers.
  - 5.3. *Fixed Term.* The duration of the appointment of the Additional Team Members and Support Workers will be fixed to coincide with the fixed term and review period of the Project Plan.

5.4. *Presbytery.* For the avoidance of doubt, the Additional Team Member and Support Workers will not be granted a seat on the Presbytery.

**6. Governance.** The Presbytery and the Mission Board will ensure good governance structures are in place to cover all aspects of the Pioneering Planting Project.

6.1. *Finance.* The Chief Executive Officer and the Finance Manager will confirm that they are satisfied with the financial and governance arrangements before the Project is formally established.

6.1.1. The Presbytery may apply for charitable status under the direction of the Legal and Compliance Officer whereby they would manage the financial activities of the Pioneering Planting Project. In doing so, they would seek to identify local personnel to help them secure the everyday financial management of the Project. If such personnel are not available locally, the Presbytery will consult with the CEO and the Finance Manager as to what steps need to be taken to support the Presbytery in this aspect of managing the Project.

6.1.2. Alternatively, where the charitable status of the Presbytery as the means of securing good financial governance is judged to be inadvisable, the Presbytery will consult with the CEO, the Finance Manager, and the Mission Board, to make whatever arrangements are considered necessary to secure good financial governance and compliance with the requirement of the charities' regulator.

6.2. *Ministry.* The Pioneer Planter will ensure that the governance of everyday ministry under the Pioneering Project Plan complies with our Presbyterian form of Church government, and which will ensure clear lines of accountability and reporting for all Team members.

6.2.1. The Presbytery will appoint an Advisory Group comprised of at least one Minister and two Elders. The Advisory Group will also include a representative appointed by the Mission Board.

6.2.2. The Advisory Group will meet with the Pioneer Planter monthly, and they shall report to the Presbytery on the meetings every six months.

**7. Church Planting.** When the Pioneering Planting Project identifies an area or location that is judged to present a Church Planting opportunity, the Pioneer Planter will report accordingly to the Presbytery and to the Mission Board.

7.1. *Process.* The Presbytery and the Mission Board will then proceed to establish a Church Plant according to the process set out in Sections A-C of this Act.

**8. End-of-term Review.** The Pioneering Planting Project will be reviewed at the end of the first five-year term. The Project Advisory Group will commence the review process in consultation with the Presbytery and the Mission Board not later than nine months before the end of the five-year term.

8.1. *Project Plan.* The Advisory Group will report on the Project Plan showing progress made in the ministry of the Pioneering Project and highlighting adjustments to the Plan going forward where the ongoing experience of ministry has demanded such changes.

8.2. *Financial Plan.* The Advisory Group will report on the Financial Plan showing actual income and expenditure for the five-year term in comparison to budgeted income and expenditure for the same period.

8.3. *Review Outcome.* The Presbytery will consult fully with the Advisory Group and the Project Team before submitting their report with recommendations to the Mission Board.

8.3.1. *A Second Term.* If the Presbytery concludes that the Pioneering Planting Project has progressed such that there are encouraging developments justifying continuance of the Project, and that the Project Plan and the Financial Plan show evidence of good governance, the Presbytery will report to the Mission Board accordingly, recommending that the Project be extended for a second and final five-year term.

8.3.2. *Termination.* If the Presbytery concludes that the Pioneering Planting Project has achieved all its objectives, or is no longer viable, and that there is insufficient evidence to show that a second five-year term will be successful, they will report to the Mission Board accordingly, recommending that the work be terminated. Should this be the case, all appointments under the Project will be terminated according to the terms and conditions set out in Section C, Paragraph 3.2.3. above.

**9. Final Review.** A Pioneering Planting Project will continue in operation for a maximum of two five-year terms.

9.1. *Final Report.* At the end of the second five-year term the Project Advisory Group will prepare a final report for the Presbytery and the Mission Board in consultation with the Pioneer Planter.

9.2. *Review.* The Mission Board and the Presbytery will review the whole Project and its outcomes, assessing its overall ministry in the context of the aims and objectives of the Project Plan.

9.3. *Ministerial Members.* The appointments of all Ministers appointed to the Pioneering Planting Project will be terminated according to the terms and conditions set out in Section C, Paragraph 3.2.3. above. *Additional Workers.*

9.4. *Additional Workers.* The appointments of all additional workers appointed to the Pioneering Planting Project who are not ordained Ministers or Probationers will be terminated according to the terms of their contract of employment.

## **F. REPEALS**

1. The General Assembly repeal Act 15, Class 2, 2013 anent Church Planting and Evangelism.

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### **Act 21 – Ministers’ Absences due to Ill-health**

Number 20 of Class 2

*Category: Governance*

*Wednesday 24th May 2023*

The General Assembly, recognising the need to update and revise the regulations relating to the management of the absence of a Minister or an Assistant Minister from work due to ill-health, enact and ordain as follows:

#### **A. ABSENCE UP TO TWENTY-SIX WEEKS**

**1. Absence of Over Seven-days.** Absence from work due to illness for more than seven consecutive days shall be reported to the Presbytery Clerk and a medical *Statement of Fitness for Work* shall be provided.

1.1. *Minister.* The Minister shall continue to provide such certificates, covering the whole period of absence, and a final certificate showing the date of return to work.

1.2. *Presbytery.* The Presbytery Clerk shall:

1.2.1. Record the dates of commencement and end of absence in a record apart.

1.2.2. Inform the Presbytery of the Minister’s absence.

1.2.3. Inform the Chief Executive Officer and the Finance Manager of the Minister’s absence.

1.2.4. Inform the Chief Executive Officer and the Finance Manager of the Minister’s return to work.

1.2.5. Inform the Convener of the Presbytery’s Pastoral Team as soon as possible so that the appropriate support for the Minister and his family may be set in motion.

1.3. *Ministry.* The Minister should not undertake any duties in relation to his office unless the *Statement of Fitness for Work* allows him to do so.

1.4. *Pastoral Support.* Presbyteries should always, when dealing with the illness of Ministers, bear in mind their obligation to exercise pastoral care toward Ministers, and toward congregations where many pastoral and other needs may arise in the absence of the Minister. Presbyteries are reminded of the central role of their Pastoral Team in providing this support.

**2. Extended Absence.** If the absence from work exceeds four weeks and continues up to twelve weeks, the Presbytery shall proceed as follows at each stage:

2.1. *Four Weeks.* If the illness is expected to exceed four weeks, the Presbytery shall discuss with the Minister and Congregation through their Pastoral Team what support is needed.

2.1.1. The Presbytery shall consider the pastoral needs of the Congregation and take appropriate action for the welfare of the Congregation.

2.2. *Eight Weeks.* If the absence of the Minister exceeds, or is expected to exceed, eight weeks, the following will apply:

2.2.1. Presbytery shall appoint an Interim Moderator in consultation with the Kirk Session if this step has not already been taken.

2.2.2. The Presbytery’s Pastoral Team shall continue to monitor the Minister’s progress throughout the term of his absence.

2.3. *Independent Medical Report.* If the absence of the Minister exceeds eight weeks, the Presbytery Pastoral Team shall consider the need for an Independent Medical Report.

2.3.1. The Presbytery will seek the consent of the Minister before proceeding to arrange an Independent Medical Report.

2.3.2. The Independent Medical Report will address issues such as the Minister's health and prognosis, any work-related factors which may delay a return to work, an assessment of the Minister's capability to return to work, or any necessary adjustments to the working arrangements that might facilitate a return to work.

2.3.3. The Pastoral Team should contact the Chief Executive Officer or the Finance Manager for a list of recommended providers and a budget for such a report.

2.3.4. The costs of up to three Medical Reports per absence will be paid by the Mission Board.

2.3.5. The terms of the Medical Report will in each case be communicated to the Chief Executive Officer.

2.4. *Twelve Weeks.* If the illness is expected to exceed twelve weeks, the Presbytery shall send a letter to the Clerk of the Mission Board and the Chief Executive Officer outlining how the Minister's absence from work is managed and how the needs of the Congregation are met.

**3. Return to Work.** If the Minister is able to return to his duties at any stage of this period of absence from work, the Presbytery shall consider the need for a Return-to-Work Plan and, if they agree that such a plan is necessary, shall follow the procedure set out in Section D below.

## **B. ABSENCE OF TWENTY-SIX TO FIFTY-TWO WEEKS**

**1. Twenty-six Weeks.** If the illness exceeds twenty-six weeks, the Presbytery shall proceed as follows:

1.1. *Independent Medical Report.* The Presbytery Pastoral Team shall consider the need to obtain an Independent Medical Report, following the procedure in Section A, Paragraph 3.3 above.

1.2. *Congregational Meeting.* The Presbytery shall meet with the Congregation by the end of week thirty of the absence to ascertain:

1.2.1. Their condition in the light of their Minister's absence.

1.2.2. Their views on the most satisfactory way of meeting their pastoral and other needs.

1.3. *Ministerial Arrangements.* As a result of the Congregational Meeting, the Presbytery will consider appropriate ministerial arrangements for the Congregation in the continuing absence of the Minister in consultation with the Mission Board.

1.3.1. The Presbytery will seek to balance the needs of the Congregation with the circumstances of the Minister and his family when making the ministerial arrangements.

**2. Thirty-nine Weeks.** If the illness exceeds thirty-nine weeks, the Presbytery shall proceed as follows:

2.1. *Independent Medical Report.* The Presbytery shall obtain an Independent Medical Report, following the procedure in Section A, Paragraph 3.3 above.

**3. Fifty-two Weeks.** If in the light of the Independent Medical Report the illness is expected to exceed fifty-two weeks, the Presbytery shall:

3.1. Meet with the Congregation to give an update on the current situation regarding the Minister's absence and to consider the way ahead.

3.2. Assess the Congregational needs and its spiritual health.

3.3. Report on the present situation to the Mission Board.

3.4. The Presbytery will ensure that steps are taken to protect matters of confidentiality in all situations.

**4. Return to Work Plan.** If the Minister is able to return to his duties at any stage of this period of absence from work, the Presbytery shall prepare a Return-to-Work Plan and will follow the procedure set out in Section D below.

## **C. ABSENCE OF ONE YEAR TO EIGHTEEN MONTHS**

**1. One Year.** If at the end of fifty-two weeks of absence the Minister is still unable to fully resume his duties, the Presbytery shall either:

1.1. Declare that the Minister's pastoral tie with the Congregation will be dissolved; or

1.2. Declare that exceptional circumstances exist that justify a decision not to dissolve the pastoral tie.

**2. Dissolving the Pastoral Tie.** If the pastoral tie is to be dissolved, the Presbytery shall proceed as follows:

2.1. *Date.* The Presbytery shall agree a date for the dissolution of the pastoral tie with due regard to all the circumstances.

2.2. *Minister.* The Presbytery shall inform the Minister that the pastoral tie is to be dissolved. They shall explain to him the reasons behind the Presbytery's decision.

2.3. *Congregation.* The Presbytery shall meet with the congregation to inform them of the decision to dissolve the pastoral tie, and to explain the reasons behind the Presbytery's decision.

2.4. *Central Office.* The Presbytery shall also inform the CEO and the Mission Board.

2.5. *Stipend.* A Minister loosed from his charge at this stage shall be eligible to receive the full stipend for a period of up to six months from the date on which the pastoral tie is dissolved, or until taking up another appointment or employment, whichever is earlier, subject to a maximum of eighteen months full stipend in total, from the first day of absence, as outlined in Section E below.

2.6. *Roll of Resigned Ministers.* The name of a Minister loosed from his pastoral charge in this way will be added to the Roll of Resigned Ministers.

**3. Exceptional Circumstances.** The Presbytery shall consider at this stage if exceptional circumstances exist and, if so, shall proceed as follows:

3.1. *Classification.* The circumstances will be classified as exceptional on the basis of one of the following:

3.1.1. Based on the Medical Report and Statement of Fitness for work, the Minister's return to work is imminent.

3.1.2. Based on the Medical Report and the Presbytery's assessment of the Minister, a return to work will be possible within the next twelve weeks.

3.1.3. Where it is in the best interests of the Minister and the congregation not to dissolve the pastoral tie at this time, in which case full stipend will continue for a maximum of eighteen months in total as outlined in Section E.1 below.

3.2. *Records.* The Presbytery shall record in its minutes the reasons which constitute the exceptional circumstances.

3.3. *Mission Board.* The Presbytery will consult with the Mission Board before declaring that exceptional circumstances exist and will inform the CEO.

**4. Return to Work.** If the Minister is able to return to his duties at any stage of this period of absence from work, the Presbytery shall prepare a Return-to-Work Plan and will follow the procedure set out in Section D below.

#### **D. RETURN TO WORK**

**1. Return to Work Plan.** The Presbytery shall consider the need for a Return-to-Work Plan when preparing for a return to work.

1.1. *Optional.* A Return-to-Work Plan is at the discretion of the Presbytery when considering a Minister's return to duties after up to a four-week absence from work.

1.2. *Compulsory.* A Return-to-Work Plan is required when preparing for a Minister's return to work at any other stage of the process set out in this Act.

1.3. *Extension.* The implementation of a Return-to-Work Plan may be extended at the end of the phased return-to-work period when it is the considered opinion of the Presbytery that this will be of benefit to the Minister and the Congregation.

1.3.1. The implementation of a Return-to-Work Plan may not be extended when the Plan has commenced at the end of a fifty-two-week absence from work.

**2. The Plan.** The Presbytery will appoint its Pastoral Team to prepare and manage the Return-to-Work Plan.

2.1. *Period.* The Plan will cover an initial period of twelve weeks.

2.2. *Contents.* The Plan shall set out a route map clearly showing: (a) the duties to be carried out during the phased return; (b) the weekly time allocation for the designated task; (c) the arrangements for the monthly review of the phased return; (d) the increased level of duties to be undertaken after each successful review to ensure progress through the programme; and (e) the outcome should the phased return prove to be unsuccessful.

2.3. *Statement of Fitness for Work.* The Pastoral Team shall proceed to formulate a Return-to-Work Plan on receipt of the GP's Statement of Fitness for Work and the GP's advice regarding a phased return to work.

2.4. *Assessment.* The Pastoral Team shall assess the Minister's ability to take up the full duties of the ministry.

2.4.1. The primary purpose of the return-to-work assessment is to make sure that the Minister is fit to perform the tasks involved in the ministry effectively and without further risk to his own health.

- 2.5. *The Process.* The Pastoral Team shall proceed as follows in preparing the Return-to-Work Plan:
- 2.5.1. They shall consult with the Minister's GP, with the consent of the Minister, and shall make suitable adjustments to the Plan if the Minister is diagnosed with a disability.
- 2.5.2. They shall consult with the Mission Board before finalising the Plan.
- 2.5.3. They shall agree the Plan with the Minister.
- 2.6. *The Presbytery.* The Presbytery shall approve the Plan.
- 2.6.1. They shall communicate the Plan to the Congregation.
- 2.6.2. They shall inform the Chief Executive Officer that the Plan has been agreed.
- 2.7. *Implementation.* The Presbytery shall appoint a member of the Presbytery Pastoral Team to support the Minister and monitor the implementation of the plan. The person appointed will report to the Presbytery before each monthly review or before then should circumstances change. The Presbytery shall make such adjustments and modifications as are considered necessary to enable the phased return to work.
- 3. The Outcomes.** The possible outcomes from a Return-to-Work process are as follows:
- 3.1. *Return to Work.* The Return-to-Work Plan has been successful, and the Minister is ready to resume full pastoral duties.
- 3.2. *Extension.* The Return-to-Work Plan has assisted the Minister in working towards full duties but needs to be extended for a second and final twelve-week period.
- 3.3. *Part-time Duties.* The Return-to-Work Plan has highlighted that the Minister is not able to take up fulltime duties but may be ready for part-time ministry. The Presbytery may then consider a permanent reduction to hours or expected duties under the provisions of Alternative Ministerial Arrangements.
- 3.4. *Unable to Return to Work.* The Minister has not been able to complete the Return-to-Work Plan and it is clear to Presbytery that the pastoral tie should be dissolved.
- 4. Dissolving the Pastoral Tie.** The Presbytery may, at any stage of the Minister's absence from work beyond the twenty-sixth week of absence, conclude that he is unable to meet the demands of the pastoral ministry and that the pastoral tie should be dissolved. The Presbytery will come to this conclusion on the basis of the medical assessments, their own review of the situation, and in the best interests of the Minister and the Congregation. The terms and the process of Section C.2 above will apply in all cases where the pastoral tie is dissolved.
- 5. Return to Work.** If the Minister is able to return to his duties at any stage of the Return-to-Work programme, the Presbytery will inform the CEO and the Mission Board and will ensure that the Minister is adequately supported by the Pastoral Team.

## **E. MISCELLANEOUS**

- 1. Minister's Consent.** The Presbytery will proceed with the management of the absence in consultation with, and with the consent of, the Minister.
- 1.1. *Failure to Consent.* If the Minister fails to consent at any stage of the process, the Presbytery will note the failure. They will remind the Minister that he is under the jurisdiction of the Presbytery and bound to cooperate with them in the spirit of the gospel.
- 1.2. *Implementation.* The Presbytery will inform the Minister that they must proceed with the implementation of the process in their duty of care for him and for his congregation.
- 2. Disability Discrimination.** The Presbytery will always give due consideration to the provisions of the Equality Act and matters of disability discrimination.
- 3. Stipend.** The maximum total period of payment of full stipend to a Minister who is unable to fulfil his duties due to ill-health, is eighteen months.
- 3.1. *Rolling Period.* This is the maximum amount of full stipend that will be paid in any three-year rolling period. Any additional absence from the Congregation will be unpaid.
- 3.2. *Cumulative.* If a Minister has a phased return to work, or undertakes reduced duties for a temporary period, stipend will continue to be paid at the full rate, but the time will count towards the eighteen-month total.



**4. Intermittent Absence.** In the event of a Minister being absent through illness or unable to fulfil his duties intermittently for more than twelve weeks in total over a period of two years, the Presbytery, in consultation with the Mission Board, will decide a plan of action appropriate to the case.

4.1. *Exceeding Twenty-six Weeks.* If the intermittent absence, or inability to fulfil duties, due to ill-health exceeds twenty-six weeks in total over a period of two years, the terms of Paragraph B.1 apply.

4.2. *Exceeding Thirty-nine Weeks.* If the intermittent absence or inability to fulfil duties exceeds thirty-nine weeks in total in any three-year period, the terms of Paragraph B.2 onwards apply.

**5. Minister's Entitlement.** The Minister's entitlement to the financial provisions of this Act in managing an absence from work will be subject to a graduated level of entitlement in the first three years of ministry as follows:

5.1. *First Year of Ministry.* If the Minister is in the first year of his ministry when his absence from work begins, he will be paid full stipend for a maximum of six months.

5.2. *Second Year of Ministry.* If the Minister has been in the ministry for more than one year but less than two years when his absence from work begins, he will be paid full stipend for a maximum of nine months.

5.3. *Third Year of Ministry.* If the Minister has been in the ministry for more than two years but less than three years when his absence from work begins, he will be paid full stipend for up to a maximum of twelve months.

5.4. *Pastoral Tie.* In such circumstances the Presbytery may need to decide if the pastoral tie should be dissolved sooner following the process set out in Paragraph C.2 above.

5.5. *Supply Costs.* If stipend stops and the pastoral tie is not dissolved, the Congregation can apply to the Finance Manager for reimbursement of supply costs in line with the regulations for vacant congregations.

## **6. General Provisions**

6.1. *Confidentiality.* All discussions on personnel matters should be treated as strictly confidential.

6.1.1. Any papers distributed should be returned to the Presbytery Clerk by the close of the Presbytery meeting. The Clerk should proceed to shred all documentation, other than papers retained for the purposes of the minutes.

6.1.2. In exceptional circumstances where papers are distributed electronically, all electronic papers held by members of the Presbytery and the Mission Board shall be deleted.

6.2. *Pastoral Support.* The Presbytery shall offer the Minister such assistance and advice as it deems appropriate in all the circumstances.

6.2.1. The Presbytery Pastoral Team shall inform the Board of Ministry of the Minister's absence and return-to-work arrangements so that additional pastoral support may be provided by the Board as required.

6.3. A Minister who is absent because of illness may not attend a meeting of a Court, Board or Committee of the Church.

6.4. A Minister may apply to Presbytery to resign or retire on the grounds of ill health.

## **7. Financial Provisions**

7.1. The costs of up to three independent medical examinations will be met by the Mission Board for which due budgetary provision will be made annually. Costs should be agreed with the Chief Executive Officer or Finance Manager.

7.2. Each Presbytery shall make financial provision for any additional support that may be deemed necessary for the Minister and his family during his absence through the provisions of a Presbytery Benevolent Fund.

7.3. Pension contributions at the full amount shall be conserved as long as full stipend continues to be paid.

7.4. For a Minister who was an active member of the closed Free Church of Scotland Pension Scheme, applications for early retirement on the grounds of incapacity will be subject to the rules of the Scheme.

## **8. Repeals**

The General Assembly repeal Act 4, Class 2, 2002 and Act 18, Class 2, 2010.

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## **Act 22 – Leave of Absence for Ministers**

Number 21 of Class 2

The General Assembly, seeking to update and clarify the regulations for Annual Leave and Leave of Absence for Ministers, enact and ordain as follows:

- 1. Day of Rest.** Ministers should ensure that they take at least one day of rest a week.
  - 1.1. *Presbyteries.* Presbyteries should encourage Ministers to follow this practice through the normal course of the activities of its Pastoral Team.
  - 1.2. *Kirk Sessions.* Kirk Sessions should also encourage the Minister to follow this practice and should make every effort to relieve the Minister of regular pastoral duties on the designated day of rest.
- 2. Annual Leave.** In addition to the weekly day of rest, Ministers shall be entitled to annual leave as follows:
  - 2.1 *Entitlement.* Ministers who work a six-day week are entitled to forty-two days annual leave in any one calendar year, of which six may be Sundays.
    - 2.1.1. This holiday entitlement is the equivalent of seven weeks annual leave.
    - 2.1.2. There is no additional entitlement for public holidays.
  - 2.2 *Holiday Period.* Any one holiday period shall not exceed 28 successive days without the Minister informing the Presbytery of his proposed arrangements.
  - 2.3 *Holiday Entitlement Period.* All holiday entitlement shall be taken up before 31st December or may be extended to 28th February of the following year with the agreement of the Presbytery. The amount of holiday entitlement carried over will be limited to one week.
    - 2.3.1. Ministers are encouraged to plan their holidays well in advance and to make timeous arrangements for cover.
    - 2.3.2. Preaching supply expenses incurred during the Minister's holiday periods shall be met by the Deacons' Court.
- 3. Paternity Leave.** Ministers may be granted up to two weeks of paternity leave on application to the Presbytery subject to him being at least twenty-six weeks in the ministry. The Minister will be paid the full stipend for the two weeks.
- 4. Compassionate Leave.** Compassionate leave on grounds of bereavement, family illness, or special circumstances, may be granted to the Minister by the Presbytery.
  - 4.1 *Bereavement.* In the event of a bereavement in the Minister's family, or of a close relative, or of a dependant, the Minister shall automatically be entitled to receive compassionate leave with pay for up to five working days.
  - 4.2 *Family Illness.* In the event of serious family illness where the Minister's ability to focus wholly on his duties is impaired, he shall be entitled to compassionate leave. The period of compassionate leave shall be determined by the Presbytery in consultation with the Minister and giving due regard to the personal circumstances prevailing at the time.
  - 4.3 *Special Circumstances.* Where special circumstances apply, it will be open to the Presbytery to set the period of compassionate leave.
    - 4.3.1. The Presbytery, through its Pastoral Team, shall monitor closely the specific circumstances in each case.
    - 4.3.2. The Pastoral Team may be authorised to make interim arrangements (e.g., appoint Interim Moderator or arrange supply), after consultation with the Minister, and then report to Presbytery.
  - 4.4 *Miscellaneous.* The following rules apply regarding compassionate leave:
    - 4.4.1. Compassionate leave will not exceed a period of four weeks.
    - 4.4.2. The Minister will be paid for the duration of compassionate leave up to the maximum of four weeks.
    - 4.4.3. In situations where the need for an extended period of absence arises, the Minister will contact his GP to be signed off work. The regulations regarding the Managing Minister's Absence from Work will then apply.
  - 4.5 *Presbytery.* The Presbytery, acting through its Pastoral Team, will take all reasonable pastoral care of the Minister and his family during such occasions where Compassionate Leave is considered appropriate.
    - 4.5.1. The Presbytery Clerk (or other appointed Presbytery representative) is to be authorised to make interim arrangements after consultation with the Minister and then report to the Presbytery.
- 5. Care of Dependants.** Time off may also be granted to Ministers to deal with emergencies involving a dependant.
  - 5.1. *A Dependant.* A dependant can be a wife, a child, a parent, or anyone living in your household as a member of the family.

5.2. *Allowance.* The Minister will be allowed reasonable time off to deal with the emergency and make any arrangements that are needed.

5.2.1. A reasonable time off will normally be one or two days, but this may be extended to a maximum of one week at the discretion of the Presbytery Pastoral Team and depending on the circumstances.

5.2.2. In a situation where a period of more than one week of time off is required to deal with an emergency, the Minister may be granted Compassionate Leave.

5.3. *Notification.* The Minister shall notify the Presbytery Pastoral Team as soon as possible after the need for time off to deal with an emergency has arisen.

5.4. *Stipend.* The Minister will be paid for time off to care for dependants in cases of emergency for up to a period of one week.

**6. Special leave.** Special Leave for Ministers in pastoral charges may be granted by the Presbytery under the following conditions:

6.1 *Internal Assignment.* Special Leave may be granted to undertake work within the Free Church of Scotland, e.g., as a delegate, at the specific request of a department of the Church. In each case the department shall obtain the permission of the Presbytery and the concurrence of the Congregation. The preaching supply costs, and any other additional expenses required to cover the Minister's absence, shall be borne by the department concerned.

6.2 *External Organisations.* Special Leave may be granted to undertake work for any organisations outside the Free Church of Scotland. This would involve secondment to an organisation and the organisation concerned would meet the full cost of the Minister's absence, including pension costs. In granting such leave the Presbytery shall have the concurrence of the Congregation.

6.3 *Sabbatical Leave.* Special Leave may be granted to undertake sabbatical leave for study, writing, reading and reflection, or extra-denominational work. A Minister shall be entitled to sabbatical leave for every seven years of service since ordination.

6.3.1. Sabbatical Leave may be granted where the Minister has served at least three years in his present charge or position. The leave of absence, on full stipend, may be granted up to a maximum of three months.

6.3.2. The Presbytery shall consult with the Kirk Session and the Mission Board before a final decision is taken. The Congregation and the Mission Board shall have the right of appeal.

6.3.3. The congregation will maintain their level of contributions to the remittances scheme for the whole period of Sabbatical Leave.

6.3.4. The pension rights of Ministers shall be conserved as long as paid leave extends.

6.3.5. The Minister shall bring firm proposals for study, writing or extra-denominational work to the Presbytery when submitting his application for sabbatical leave. He shall bring a report to the Presbytery and the Mission Board when the period of sabbatical leave has been completed. He shall, at all times, inform his congregation of his proposed absence and of pastoral arrangements during such absence.

**7. Notification.** The Presbytery shall notify the Chief Executive Officer and the Finance Manager in all cases of leave of absence granted to Ministers which extend to more than two weeks.

**8. Repeals.** The General Assembly repeal Act 27, Class 2, 2005, Act 19, Class 2, 2010, and Act 7, Class 2, 2018.

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## Act 23 – Assembly Clerks

Number 22 of Class 2

**Category:** Governance

**Wednesday 24th May 2023**

1. The General Assembly thank the Board of Trustees and the Appointments Group for their diligence in seeking nominations to fill the vacancies arising in the Assembly Clerks' Office.

2. The General Assembly note that the first six-year term of Rev. Malcolm Macleod as Principal Clerk comes to an end at this Assembly. They re-appoint Mr Macleod as Principal Clerk for a second term up to a maximum of six years according to the terms of Act 10, Class 2, 2015. They thank Mr Macleod for his willingness to be re-appointed and commend him to the prayers of the Church. They instruct the Board of Trustees to keep the matter of a successor to the Principal Clerk under review every two years for a maximum of six years.

3. The General Assembly note that Rev. Nigel Anderson has submitted his resignation from the position as Assistant Clerk of Assembly effective from this Assembly. They thank Mr Anderson for his diligence in discharging the duties of Assistant Clerk in his time in office. They appoint Rev. Neil L. Macdonald to the position of Assistant Clerk to replace Mr Anderson for a six-year term according to the terms of Act 10, Class 2, 2015. They thank Mr Macdonald for his willingness to serve in this capacity and commend him to the prayers of the Church.

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## Act 24 – Interim Act - Conduct, Complaints and Discipline of Office-bearers

Number 23 of Class 2

**Category:** Governance

Wednesday 24th May 2023

1. The General Assembly approve the following draft Act regarding Conduct, Complaints and Discipline of Office-bearers as an Overture to Presbytery under the terms of the Barrier Act:

The General Assembly, desiring the nurture, growth, and wellbeing of the people of God, and recognising the need for discipline within the life of the Church as a biblical principle that helps to secure such development, and seeking to revise and update the disciplinary processes of the Church to ensure fairness and natural justice to all parties, enact and ordain as follows regarding Complaints received against Office-bearers of the Church:

### SECTION A – OVERVIEW

This Act is arranged as follows:

**Section A** provides an overview of the Act.

**Section B** sets out the nature and purpose of discipline. It also explains the role of private counsel and the difference between church discipline and the civil courts.

**Section C** outlines some general provisions in relation to the Act including the establishment of the Conduct and Complaints Committee, rules governing Conflict of Interest, subjects of discipline under this Act, Jurisdiction, rules of evidence, Companions, potential outcomes, the rules governing Appeals, Requests for Review and Dissent and Complaints, reopening cases, the rules governing sists and the rules dealing with the absence of the Respondent.

**Section D** deals with the initial procedure following the receipt of a Complaint including the triage process and the provision of pastoral care to those involved in the Complaint. It also outlines the process for dealing with an allegation of Heresy.

**Section E** deals with the process for the investigation of a Complaint.

**Section F** deals with the report of the Investigation Group and explains the next steps after the Complaint is admitted or denied.

**Section G** deals with the Disciplinary Hearing in the event the Complaint is denied.

**Section H** outlines the processes to be followed in a case relating to Congregational Health.

**Section I** contains a Glossary of Terms.

**Section J** deals with the repeal of previous legislation.

### SECTION B – NATURE AND PURPOSE OF DISCIPLINE

1. **The Nature of Discipline.** The General Assembly recognise the Scriptural emphasis on the place of discipline in the life of the Church. The purpose of the gospel is to make disciples of the Lord Jesus and to develop their Christian character through the regular activities of the preached Word, teaching, prayer, corporate worship, accountability relationships, pastoral oversight. This *formative discipline* takes place under the regular ministry of the Gospel. *Corrective discipline* is exercised by the Church when a believer's behaviour is contrary to the Word of God and detrimental to the good name of the Lord Jesus. This Act is concerned with *corrective discipline*. It is carried out with the authority of Christ, the Head of the Church (Matthew 18:15-17). It is based on the love of God the Father (Hebrews 12:6) and is exercised with pastoral care for the development of the people of God (Hebrews 12:10).

2. **Informal Resolution.** It is clear from our Lord's instructions in Matthew 18:15-17 that where someone sins against you it is appropriate to first bring the issue to them directly, either on your own or with one or two others. However, where the matter remains unresolved it is right "to bring it to the Church" (Matthew 18:17). This Act is concerned with how the Church should deal with a Complaint received by the Church. It must be recognised that there are some circumstances where the Complainant feels unable to go directly to the Respondent and this will not prevent the Church

from intervening. It is inappropriate in some cases, including allegations of criminality and safeguarding concerns, to seek *informal resolutions* and the matter **must** be reported to the Church and the appropriate civil authorities.

3. **The Purpose of Discipline.** The purpose of Church discipline is to restore, heal, and build up believers (Galatians 6:1-2) and to maintain the honour of the name of our Lord Jesus Christ. Discipline is carried out in line with our biblical principles, our Presbyterian form of Church Government and Chapter 30 of the Westminster Confession of Faith. All processes must be just, compassionate (2 Corinthians 2:6-8), accessible and timeous in their impact upon the Respondent, Complainant and the body of Christ, the Church. Confidentiality must be maintained in all processes to uphold the wellbeing of Complainants, Respondents and Witnesses.

4. **Church Discipline and Civil Courts.** Church discipline is not the same as processes carried out by the secular courts (whether civil or criminal). The Church cannot therefore divest itself of the responsibility of ascertaining facts and their relevance. No proceedings or judgment of a secular court can be regarded as a substitute for due ecclesiastical process, though such judgments may help in determining whether a process is required. Church Courts must form their own judgments independently of proceedings in other courts.

## SECTION C – GENERAL PROVISIONS

1. **Conduct and Complaints Committee.** The General Assembly will establish a Conduct and Complaints Committee.

1.1. *Remit.* The Conduct and Complaints Committee will be responsible for:

1.1.1. Overseeing the Conduct and Complaints procedure of the Free Church of Scotland in relation to Office-bearers. This includes oversight of disciplinary processes and responsibility for oversight of the Triage Group and the Investigation Group.

1.1.2. Maintaining lists of suitable individuals to serve in the various capacities during a conduct and complaints process.

1.1.3. Preparing and publicising regulations and guidance in areas related to Complaints and *discipline* including regulations for carrying out an investigation, standards of conduct, examples as to what constitutes a disciplinary offence, and regulations outlining the procedures to be followed by Kirk Sessions in proceeding with a disciplinary case against an ordinary member of the Church. Any regulations shall be laid before and be subject to alteration, revocation, amendment, or modification by the General Assembly or its Commission.

1.1.4. Reviewing any completed disciplinary process with a view to improving future practice. An *external reviewer* shall be someone appointed by the General Assembly or its Commission from outside the Free Church of Scotland to review any concluded case. Due to the need to consider doctrinal and theological matters in any review the *external reviewer* must be a Christian. At the conclusion of the case, they will review the process and recommend any learning points for future cases. They shall report to Conduct and Complaints Committee and to the Principal Clerk. If they become aware of a serious failing, they may also report this matter to the General Assembly or its Commission via the Principal Clerk.

1.1.5. Keeping all required records in a secure manner and complying with all legal data protection obligations and Free Church of Scotland policies.

1.2. Reporting. The Committee will report to the General Assembly or its Commission as and when required.

1.3. *Membership.* The Committee will be appointed by the General Assembly following nominations from Presbyteries. The Committee will have up to ten members. Six of the members must be Ministers or Elders within the Free Church of Scotland. Four additional members must be members of the Free Church of Scotland and at least three of those additional members must be female. All members of the Committee must have appropriate experience and expertise and have availability for regular training. Members of the Assembly Clerks' Office are not eligible to serve on this Committee in any capacity.

1.3.1. Except where varied by the rotational principle the members will be appointed for a term of four years, renewable for a second term of four years. The maximum term of continuous service shall be eight years after which no member of the Committee shall be eligible for further service until one year has elapsed. In the first year of the implementation of this Act under a rotational principle three of the Minister/Elder members and one of the three female members shall be appointed in the first instance for a period of five years and, if appointed for a further four years, shall be permitted to serve for nine continuous years.

1.3.2. The General Assembly shall appoint one of the Elder or Minister members of the Committee as Chairman and one as Vice-Chairman. The Chairman and Vice-Chairman must come from different Presbyteries.

1.3.3. The Committee will also be empowered to make use of consultants who may come from outside the Free Church of Scotland.

1.3.4. The Committee will appoint one of their female members as the Nominated Female Representative who may also receive Complaints.

1.3.5 The identity of the Chairman, Vice Chairman and the Nominated Female Representative shall be clearly communicated within the Church along with their contact details for use when raising a Complaint. The Principal Clerk's contact details will be communicated alongside this for use where the *Complaint* may relate to a member of the *Committee*.

## **2. Conflict of Interest.**

1.1. In any case where a member of the Committee has a Conflict of Interest, this must be declared, and an alternative person should be found to fulfil the role in the case. For the purposes of this Act only, a Conflict of Interest which will prevent someone acting, may be a genuine Conflict of Interest or a perceived conflict. Where another person is aware of a potential Conflict of Interest, they should inform the Principal Clerk who will decide whether there is a Conflict of Interest.

1.2. No one shall serve on an Investigation Group in any proceedings involving the Presbytery in which they reside.

1.3. No one shall be appointed to the Investigation Group in any single case or series of related cases against a Respondent where they have previously acted as an Adviser for the Respondent.

1.4. Where at any stage in procedures under this Act multiple Conflicts of Interest arise, and no person named in this Act can make an appropriate decision, the matter should be brought to the attention of the Principal Clerk who will appoint appropriate alternative decision makers. Where the Principal Clerk is himself conflicted one of the Assistant Clerks shall assume this responsibility.

## **3. Subjects of Discipline.** The following shall be subject to investigation and discipline in terms of this Act:

1.1. *Ministers.* All Ministers including Ministers who are staff members at ETS, church planters, missionaries, retired Ministers, resigned Ministers, and those on the Roll of Ministers Without Charge.

1.2. *Probationers.* A *probationer* is any person who has been licensed by a Presbytery as a preacher of the gospel but who has not yet been ordained.

1.3. *Candidate.* A *candidate* is any person who has been approved by the Board of Ministry as a candidate for the ministry in the Free Church of Scotland.

1.4. *Elders.* An *Elder* is any person who has been ordained as an Elder of a Congregation but for the purposes of this Act only shall not include anyone who is also a Minister. Elders includes those who are not currently serving as ruling Elders but who were previously ordained as an Elder.

1.5. *Deacons.* A *Deacon* is any person who has been ordained as a Deacon of a Congregation.

1.6. For the avoidance of doubt, this Act only applies to *Church Office-bearers* and does not apply to:

1.6.1. Communicant members or adherents except where members undertake the roles set out in 3.1 to 3.5 above.

1.6.2. A former Office-bearer who was previously deposed from office and has not been restored.

1.6.3. Church employees (persons who work for the Free Church of Scotland by reason of having an employment contract from the Free Church or any Congregation) except where they are members of the Free Church of Scotland and undertake any of the roles set out in 3.1 to 3.6 above; or

1.6.4. Board consultants, advisers, and finance committee members except where they are members of the Free Church and undertake any of the roles set out in 3.1 to 3.5 above.

1.7. *Deceased Respondent.* Where a Respondent is deceased, it is not appropriate to proceed with a discipline case, although the Church Court with Jurisdiction may still conduct their own investigation into the circumstances and prepare a report into the matter identifying learning areas for the Church. The Church Court may seek the assistance of the Conduct and Complaints Committee in conducting their investigation. The Church Court may meet with any Complainants to assure them that although they cannot conduct any process, they are seeking to learn whether there are any general lessons which may be learnt from the Complaint(s).

## **4. Jurisdiction.** The Presbytery or the Kirk Session will have Jurisdiction over the Subjects of Discipline.

1.1. *Presbytery.* Ministers, probationers, and candidates come under the Jurisdiction of the Presbytery. A Presbytery has Jurisdiction over an individual who has a seat on the Presbytery or who resides within the bounds of the Presbytery. Where a Minister no longer resides within the bounds of any Presbytery, the Presbytery where they last resided retains Jurisdiction.

1.2. *Kirk Session.* Elders and Deacons come under the Jurisdiction of the Kirk Session of the local congregation of which they are communicant members and office bearers. Where they are no longer a ruling elder within a congregation, they will come under the Jurisdiction of the Kirk Session where they are a communicant member. If they are no long a

communicant member within the Free Church of Scotland, the Kirk Session which last had jurisdiction will retain Jurisdiction.

1.3. *Multiple Parties.* In any case involving multiple parties who come under the Jurisdiction of more than one Church Court, all parties should be dealt with by the same Court.

1.3.1. If the parties belong to different Congregations, the Kirk Sessions will consult with the Presbytery who shall advise as to which Kirk Session will deal with the matter.

1.3.2. If the parties belong to different Presbyteries, the Presbyteries will seek the advice of the Assembly Clerks' Office who will give advice as to which Presbytery will deal with the matter.

1.3.3. If one of the parties against whom the Complaint is made is a Minister, ETS staff member, probationer or candidate, the Presbytery concerned must take up the case against all parties and in due course advise the Kirk Session having responsibility for the other person(s).

1.4. In all cases involving multiple parties the Court dealing with the case will keep all other Courts informed of the progress on the process of the case and will report the eventual outcome.

1.5. *Congregational Health.* Where an issue of Congregational Health arises, the Presbytery in which the Congregation is situated will have Jurisdiction.

## **5. Evidence.**

1.1. *Presumption of Innocence.* The Respondent is presumed innocent until proven guilty.

1.2. *Standard of Evidence.* The standard of evidence required for the Respondent to be found guilty of the Complaint shall be on the balance of probabilities providing the requirements of Paragraph 5.3 are met. "Balance of probabilities" means that the Kirk Session or Presbytery will be satisfied that on the evidence before them it is more likely than not that the allegation is true. This is in accordance with the requirements of 1 Timothy 3:2 and Titus 1:7 that an Elder must be blameless and above reproach.

1.3. *Witnesses.* The testimony of more than one witness shall be necessary to establish any Complaint in accordance with the standard set out in Deuteronomy 19:15 and 1 Timothy 5:19 where a single *witness* is insufficient.

1.3.1. However, it is understood that supporting evidence, such as documentary evidence or video evidence can serve as the equivalent of one of those *witnesses*, and this shall satisfy the principle expressed by the Biblical passages. A *witness* will be required to establish the authenticity of the supporting evidence, unless agreement is reached that the supporting evidence is authenticated.

1.3.2. It is necessary to establish the credibility and reliability of each *witness* before deciding whether there is sufficient evidence for the purposes of Paragraph 5.2 above. Deuteronomy 19:16-21 makes clear that a *witness* should be carefully examined and where a communicant member is proven to be a Malicious Witness, they themselves could be subject to disciplinary procedures.

1.3.3. In assessing the credibility and reliability of each *witness* it is competent to consider Hearsay evidence of statements made at the time of the incident to show whether a *witness* has been consistent in their evidence. Such evidence may also include a description of distress. However, this kind of Hearsay evidence will not qualify as a second *witness statement* for the purposes of Paragraph 5.3.

1.3.4. Previous signed *witness statements* can also be used to illustrate previously inconsistent statements which may assist the Church Court in determining the credibility and reliability of the *witness*.

1.4. *Hearsay.* Hearsay evidence is generally excluded from consideration except where either:

1.4.1. The *witness* is now deceased.

1.4.2. For the purposes of establishing credibility and reliability of a *witness* in accordance with Paragraph 5.3.3.

1.5. *Circumstantial Evidence.* Circumstantial evidence may be used in pursuing a Complaint. However, it is generally recognised that where circumstantial evidence alone is being used multiple strands of circumstantial evidence must be produced to establish a Complaint.

1.6. *A Course of Conduct.* A Complaint may relate to a course of conduct, as opposed to a particular incident. In such cases the testimony of multiple credible and reliable *witnesses* to the course of conduct will be sufficient, even where there are not multiple *witnesses* as to any individual incidents.

**6. Companion.** It is open to anyone who appears before a Church Court or Committee to be accompanied by a Companion for support, although usually that person is not permitted to speak. A Respondent's Companion may be their Adviser.

**7. Potential Outcomes.** In all cases where the Complaint is admitted or established by a Church Court, the Kirk Session or Presbytery may decide on one of the following courses of action:

(1) *No Action* (Paragraph 7.1)

(2) *Minor Censure – Admonition or Rebuke* (Paragraph 7.2)

(3) *Major Censure – Suspension from Privileges, Suspension from Office, Deposition from Office, or Removal of Status* (Paragraph 7.3)

1.1. *No Action.* To take no further action due to the minor nature of the Complaint.

1.2. *Minor Censure.* For less serious offences, to impose a *minor censure* such as Admonition or Rebuke.

1.2.1. Minor censure may be accompanied with an instruction to the Respondent to undertake appropriate pastoral counselling.

1.2.2. Admonition is the lightest form of minor censure and involves counselling against sin and exhortation to more careful and worthy conduct.

1.2.3. Rebuke, which is a more serious form of Admonition, and may be administered before the Kirk Session or Presbytery or before the Congregation.

1.3. *Major Censure.* For more serious offences or for repeated minor offences, to impose a *major censure* such as *Suspension* or *Deposition*.

1.3.1. *Suspension from Privileges.* Suspension from Gospel privileges is the denial of participation in the Lord's Supper or Sacrament of Baptism for the Respondent's child for a fixed period to encourage repentance. In the case of a Minister, the Suspension of Privileges includes the Temporary Suspension of the right to preach the gospel but does not include the severance of the pastoral tie. The Minister suspended from privileges will continue to receive the stipend. Restoration of privileges at the end of the fixed period is not automatic but depends on the Court being satisfied that the offender is truly penitent. Where an offender is not penitent after a period of time a more severe censure may be imposed following a further meeting of the Church Court with the Respondent and the Presenter of the Case.

1.3.2. *Suspension from Office.* Suspension from Office includes suspension from Gospel privileges as in 7.3.1. above. In the case of a Minister, Suspension from Office includes the suspension of the licence to preach the Gospel, the severance of the pastoral tie for a Minister in a Congregation, and the termination of appointment for a Minister in a Free Church appointment.

1.3.2.1. Suspension from Office may be for a fixed period or indefinitely. Where suspension is for a fixed period, restoration is not automatic but depends on the Church Court being satisfied the person is truly penitent.

1.3.2.2. Where the party is paid a stipend, this will cease upon Suspension from Office.

1.3.2.3. Suspension of a Minister from Office will always include a declaration that the Minister is removed from his Congregation. Immediately on the Minister being suspended from Office, the outcome is to be intimated in his Congregation, the Congregation declared vacant, and another Minister appointed as Interim-Moderator.

1.3.3. *Deposition from Office or Removal of Status.* This is the most severe form of censure. This will be accompanied by removal of gospel privileges such as the Lord's Supper and the Sacrament of Baptism.

1.3.3.1. Where the party is paid a stipend, this will cease upon deposition.

1.4. *Restoration from Suspension.* A Minister or Probationer suspended from Office may apply by petition for restoration to the Presbytery which currently has Jurisdiction over him. The application for restoration will be intimated to all Presbyteries. Elders and Deacons suspended from Office will apply for restoration to the Kirk Session who has Jurisdiction over them, who will also notify the Kirk Session which imposed the suspension.

1.4.1. Any case for restoration will also be intimated to the Conduct and Complaints Committee.

1.4.2. A person suspended from Office may be restored to Gospel privileges without being restored to Office.

1.4.3. The name of a Minister whose suspension from Office is lifted will be added to the Roll of Ministers Eligible for Call. He will not be automatically restored to his previous congregation.

1.5. *Restoration from Deposition or from Removal of Status.* It is competent for a Minister to be restored to his status, and for a Probationer to have his licence restored, upon professions of repentance which seem to be borne out by a course of consistent conduct, but great caution is requisite in entertaining the question of such restoration.



- 1.5.1. A Minister deposed or Probationer removed may apply by petition for restoration to the Presbytery which currently has Jurisdiction over him. The application for restoration will be intimated to all Presbyteries.
- 1.5.2. A Minister or Probationer may be restored to Gospel Privileges without being restored to office or status.
- 1.5.3. The name of a Minister or Probationer restored to Office will be added to the Roll of Ministers Eligible for Call or the Roll of Probationers respectively.
- 1.5.4. Elders and Deacons deposed will apply for restoration to the Kirk Session who has Jurisdiction over them, who will also notify the Kirk Session which imposed the suspension.
- 1.5.5. Restoration of an Elder or Deacon who has been deposed is restoration of privileges which includes eligibility for election to office.

2. Any case for restoration will also be intimated to Conduct and Complaints Committee.

**8 Appeals / Reviews / Dissents.** In order to ensure the integrity of the process an *appeal*, *request for review*, or a *dissent and complaint* will only be permitted at the point of disposal of a case.

8.1. *Process.* The decision of a Kirk Session may be appealed / reviewed by the Presbytery; and the decision of a Presbytery may be appealed / reviewed by the Commission of Assembly or directly to the General Assembly.

8.2. *Appeal.* An appeal is the procedure whereby the Respondent brings a matter under the review of a higher Church Court. A written appeal with reasons must be submitted within ten days of the Respondent being given the written decision of the Church Court.

8.3. *Request for Review.* A *request for review* is the procedure whereby the Complainant or the Presenter of the Case requests that a higher Church Court reviews the decision in the case. A written request for *review with reasons* must be submitted within ten days of the Complainant or the Presenter of the Case being given the written decision of the Church Court.

8.4. *Dissent and Complaint.* A Dissent and Complaint is the procedure whereby any member of a Church Court who has objected to the decision of the Church Court during the decision-making process may bring the matter under review by a higher Church Court.

8.4.1. The intention to dissent and complain must be stated immediately by the member of the Church Court, upon the pronouncement of a final decision.

8.4.2. The member of the Church Court will be given ten days from the date of pronouncement of the final decision to formally submit to the Church Court their written *dissent and complaint* with reasons.

8.5. *Simple Dissent.* A *simple dissent* is the procedure whereby any member of a Church Court whose conscience is aggrieved by the decision of the Church Court may have a dissent recorded in the Minutes of the Court. A *simple dissent* without a complaint does not bring the matter under the review of a higher Church Court.

8.6. *Grounds.* An *appeal*, *request for review* or a *dissent and complaint* may only be brought on the grounds of procedural irregularity, severity of *censure* or misapplication of Scripture or Church law. It is not usually appropriate for a higher Church Court to re-examine *witnesses* and accordingly no appeal can be brought in relation to the factual decision except where a finding has been made without support from the evidence or is plainly wrong.

8.7. *Sisting Proceedings.* Any *appeal*, *request for review* or *dissent and complaint* shall *sist* the carrying out of the *censure* until the higher Church Court has considered the case.

8.8. *Hearing.* An *appeal*, *request for review* or *dissent and complaint* shall be heard within 1 month of the relevant written document being received by the clerk of the higher Church Court. Where more than one party has raised an *appeal*, *request for review* or *dissent and complaint* in relation to the same matter they shall all be dealt with together by the higher Church Court.

8.9. *Adviser at Hearing.* At the General Assembly or its Commission, the Principal Clerk will advise the Assembly on the procedure for the hearing. If the appeal, request for review or dissent and complaint is being considered by a Presbytery the Principal Clerk will appoint an Independent Adviser to the Court to advise on procedure.

9. **Re-opening a Case.** Once a final decision has been pronounced in the proper form, the case cannot be re-opened except on the presentation of new material evidence, which the Church Court could not have been aware of at the time of the original decision.

9.1. *Petition.* Where someone believes a case should be re-opened, a petition, outlining the new evidence that has come to light (“Petition”), should be submitted.

9.1.1. Where a case relates to a Minister, Probationer or Candidate the Petition should be submitted to the General Assembly or its Commission.

9.1.2. Where a case relates to an Elder or Deacon the Petition should be submitted to the local Presbytery.

9.2. *Triage Group.* In the event that the Church Court to which the Petition has been submitted decides to re-open a case it reverts to the Triage Group to put in place a new Investigation Group and begin the process.

9.3. *Restoration.* Where new evidence makes clear that the Respondent was innocent, they will be restored to their Office.

## 10. **Sisting Proceedings.**

10.1. *Situations.* The Presbytery or Kirk Session may *sist* proceedings under this Act, in whole or in part, in any of the following situations:

10.1.1. Pending the outcome of any civil or criminal proceedings or relevant investigations which relate to the Complaint with a decision whether to sist proceedings or not being taken on a case-by-case basis.

10.1.2. Due to the ill-health of the Respondent or of a material *witness* which prevents the Respondent or material *witness* from taking part in such proceedings. In the case of the Respondent a medical report should be provided.

10.1.3. For any other reason deemed appropriate.

10.2. *Request for Sist.* The Investigation Group, the Presenter of the Case or the Respondent may make a request to the Presbytery or Kirk Session that the proceedings be sisted.

10.3. *Duration of Sist.* Once a *Sist* has been imposed, it shall be presumed to continue until such time as the circumstances leading to its imposition no longer pertain, although the Moderator and Clerk of the Church Court who imposed the *Sist* should review the *Sist* every month to ensure that it is still required and may decide it is no longer appropriate.

10.4. *Review.* The appropriateness of the *Sist* continuing shall also be subject to review, upon request by the Respondent, at three-monthly intervals from the date of its imposition. Each of these reviews shall be undertaken and decided upon by the Principal Clerk, whom failing one of the Assistant Clerks, who shall have power to lift the *Sist* upon cause shown by the Respondent.

11. **Absence of Respondent.** Where a Respondent repeatedly fails to appear before a Church Court or Committee, a charge of Contumacy may be brought against them.

11.1. *The Process.* This non-appearance need not prevent the Church Court considering the evidence before it and coming to a verdict on the original accusation. However, if they wish to proceed to deposition of a minister as a *censure*, they must report the matter to the General Assembly or its Commission as only the General Assembly has the authority to depose a Minister in his absence.

## SECTION D – INITIAL PROCEDURE FOLLOWING A COMPLAINT

**1. Making a Complaint.** The following parties can raise a Complaint:

1.1. A communicant member of the Free Church of Scotland.

1.2. An adherent of the Free Church of Scotland.

1.3. A member of the public.

1.4. Any Church Court where circumstances come to their attention which indicate that an issue requires investigation.

1.5. In all cases, individuals will be identified within the church who can provide support to those considering making a Complaint.

**2. Timely Manner.** A Complaint should be submitted in timely manner in order to preserve and maintain the quality of the evidence.

**3. Receiving a Complaint.** Parties raising a Complaint should report the matter to the Chairman and Vice Chairman of the Conduct and Complaints Committee. A Complaint should be acknowledged within three days.

3.1. *Nominated Female Representative.* Parties may elect to report their Complaint to the Nominated Female Representative of the Committee, who will pass the Complaint to the Chairman and Vice Chairman.

3.2. *Church Court.* Where a Church Court receives a Complaint the Presbytery Clerk and / or Moderator will pass the Complaint to the Chairman and Vice Chairman of the Conduct and Complaints Committee.

3.3. *Duty of Office-bearers.* It is the duty of every Office-bearer in the Church who receives notice of a Complaint to pass the Complaint to the Chairman and Vice Chairman of the Conduct and Complaints Committee.

3.4. *Online Submission.* A Complaint may also be submitted via the Free Church website (www.freechurch.org). Information will be provided on the website as to how complaints are dealt with and who will receive the information. An alternative route for the submission of a Complaint will be available for situations where contact with any of the named individuals may be inappropriate or unsuitable.

3.5. *Conflict of Interest.* In the event of a potential Conflict of Interest (such as where a Complaint relates to a member of the Conduct and Complaints Committee) the Complaint can be brought to the Principal Clerk whom failing another member of the Assembly Clerk's Office who will arrange for an independent Minister or Elder within the Free Church of Scotland with appropriate training and expertise to oversee the Complaint (the "Independent Person"). The *Independent Person* will follow the rest of the procedures outlined in this Act but shall be free to appoint appropriate independent individuals in consultation with the Assembly Clerks' Office.

3.6. *Safeguarding.* If the Complaint involves allegations of criminality or safeguarding concerns, the Church's safeguarding and criminality reporting processes should be followed alongside the Conduct and Complaints process.

3.7. *Temporary Suspension – Initial Stage.* Upon receiving the Complaint, the Chairman and the Vice-chairman of the Conduct and Complaints Committee, in consultation with the CEO of the Free Church of Scotland ("CEO") and the Principal Clerk, will decide whether Temporary Suspension is appropriate.

3.7.1. *Respondent.* Where Temporary Suspension is considered appropriate the Chairman will inform the Respondent that they are temporarily suspended.

3.7.2. *Presbytery.* The Chairman will also inform the Presbytery who will hold a meeting within seven days to ratify the temporary suspension. At such a meeting, they will hear from the Respondent and the Chairman of the Conduct and Complaints Committee.

3.7.3. If the Respondent is a Minister, and he is placed under Temporary Suspension, the Presbytery will appoint an Interim-Moderator to the Respondent's Congregation.

3.7.4. Where the Respondent is a candidate or probationer, a Temporary Suspension on the Respondent may pause the candidate's training and will render the probationer ineligible to receive a call from a vacant Congregation or to respond to such a call.

3.8. *Temporary Suspension – Later Stages.* If at any later point during the investigation process the Chairman and the Vice-chairman of the Conduct and Complaints Committee, in consultation with the CEO and the Principal Clerk, come to the view that Temporary Suspension is now required they may impose a Temporary Suspension and then seek Presbytery ratification under Paragraph 3.7.2.

3.9. *Temporary Suspension – Exception for Serious Cases.* In the most serious cases (such as those involving safeguarding concerns or criminality) the Chairman of the Conduct and Complaints Committee can impose immediate Temporary Suspension but will then inform the Presbytery for ratification under Paragraph 3.7.2.

**4. Resignation.** Once a Complaint has been received by the Committee, the Respondent will not be entitled to resign their status.

**5. Triage Group.** Upon receiving a Complaint, a Triage Group will be formed under the authority of the Committee to decide which category the Complaint falls under.

5.1. *Membership.* The membership of the Triage Group will be the Chairman and the Vice-chairman of the Conduct and Complaints Committee, the Clerk of the Presbytery in which the misconduct is alleged to have occurred and one of the female members of the Conduct and Complaints Committee appointed by the chairman.

5.2. *Complaint.* The Triage Group shall consider the Complaint and decide how best to proceed with the matter. They may consult with others as they deem it appropriate. Where a Complaint is not submitted timeously it is appropriate to consider the reasons why there has been a delay and the impact this may have had upon the quality of the evidence. They will decide into which category the Complaint falls.

**6. Complaint Categories.** The Triage Group will place the Complaint into one of the following categories:

- (1) *A Low-Level Complaint* (Paragraph 6.1)
- (2) *A Disciplinary Offence* (Paragraph 6.2)
- (3) *A Heresy Complaint* (Paragraph 6.3)
- (4) *A Non-disciplinary Complaint* (Paragraph 6.4)

- 6.1. *A Low-Level Complaint.* The Triage Group will determine whether the Complaint is a *Low-Level Complaint*.
- 6.1.1. In determining whether a Complaint is *Low-Level* the Triage Group shall speak with the Complainant.
- 6.1.2. Where the Complaint is believed to be *Low-Level*, the Triage Group will report to the Kirk Session or Presbytery with Jurisdiction who will meet within twenty-one days to decide whether to declare the Complaint to be *Low-Level*.
- 6.1.3. Where the Kirk Session or Presbytery declares the Complaint is *Low-Level*, the procedures under this Act will cease unless there is a request for review or a dissent and complaint. Pastoral care will continue for all parties.
- 6.1.4. Where the Kirk Session or Presbytery does not believe the Complaint is *Low-Level* the Triage Group will appoint an Investigation Group.
- 6.2. *A Disciplinary Offence.* The Triage Group will determine whether the Complaint relates to a potential *disciplinary offence*.
- 6.2.1. Where the Triage Group decides that the matter does relate to a potential *disciplinary offence*, they will decide whether the matter relates to *conduct* or amounts to an allegation of Heresy.
- 6.2.2. Where the Triage Group determines that the matter relates to a potential Conduct Disciplinary Offence, they will (unless the matter is considered sufficiently minor) appoint an appropriate Investigation Group, led by a member of the Conduct and Complaints Committee, to investigate the circumstances and report in accordance with Sections E & F of this Act.
- 6.2.3. *Presenter of the Case.* The Triage Group will determine who will be the Presenter of the Case (usually the Chairman or the Vice Chairman of the Conduct and Complaints Committee). The Presenter of the Case will normally have been the reviewer of the Case but will not have been part of the Investigation Group.
- 6.2.4. *Informal Resolution.* Where the Triage Group is of the view the conduct that is the subject of the Complaint is minor and can be dealt with informally, they will report to the Kirk Session or Presbytery with Jurisdiction and propose how best to deal with the matter. The Kirk Session or Presbytery will report back to the Triage Group the outcome of the informal resolution and whether the matter is resolved. The Triage Group will assess the report and decide if further intervention is required.
- 6.3. *A Heresy Complaint.* The Triage Group may determine that the Complaint relates to an allegation of Heresy.
- 6.3.1. The Triage Group will consult with the Principal Clerk and the Principal of Edinburgh Theological Seminary to consider if the General Assembly has a settled opinion on the theological question or if the issue is one on which the Church recognises a liberty of opinion. The Principal of Edinburgh Theological Seminary may consult with other faculty members at ETS.
- 6.3.2. If there is a settled position on the matter, the Respondent will be asked if he accepts the Church's position. If the Respondent accepts that he has made an error and resolves to correct his thinking, that is the end of the matter (unless the same issue is raised again). If the Respondent refuses to change his opinion, then the *Triage Group* will proceed with a normal disciplinary procedure under Sections E-G of this Act.
- 6.3.3. Where the Church does not have a settled opinion on the matter, a Theological Committee will be appointed to investigate the question and report to the General Assembly or its Commission.
- 6.3.3.1. The Theological Committee will discuss the theological question with the Respondent.
- 6.3.3.2. The General Assembly or its Commission will receive a report from the Theological Committee and may sustain the report, seek further clarity, or make their own finding on the issue. It is open to the Theological Committee and the General Assembly or its Commission to declare the matter to be one on which Scripture allows liberty of conscience and accordingly make no ruling as to the correct interpretation of Scripture.
- 6.3.3.3. After a conclusion on the theological question has been reached, the Triage Group will again consider the accusation of Heresy. If the accusation is contrary to the now settled position of the Church, the Respondent will be asked if he accepts the Church's position on the matter. If the Respondent accepts the Church's settled position and confirms he has amended his thinking, that is the end of the matter (unless the same issue is raised again). If the Respondent refuses to change his opinion, then the Triage Group will proceed with a normal disciplinary procedure under Sections E-G of this Act.
- 6.4. *A Non-disciplinary Complaint.* The Triage Group will make an initial assessment as to whether the matter is a *Non-disciplinary Complaint*. Issues which will be deemed *Non-disciplinary* include Capability and issues of Congregational Health.
- 6.4.1. *Capability.* Where an issue relates to Capability for Ministry, the Triage Group will refer the matter to the Chair of the Board of Ministry who will support the Presbytery in proceeding under the Church's capability procedures. Where

a Capability issue is raised in relation to a member of ETS Staff the Triage Group will refer the matter to the ETS Board to follow ETS's capability procedures. Where the Complaint relates to both conduct and capability the conduct aspects will be investigated first as a Disciplinary Complaint under Paragraph 6.2.

6.4.2. *Congregational Health.* Where an issue is related to Congregational Health, the Triage Group will consider what evidence they have that the health of the Congregation is unsatisfactory. Evidence of this may include an undue falling away of attendance at public worship and/or undue withdrawal of financial support of the Congregation. Congregational Health could also relate to a break down in the relationships in the Congregation, such as between the Congregation / Office-bearers and the Minister or between the Congregation and the Office-bearers. A Congregational Health issue will be reported to the Presbytery and the matter will be investigated in accordance with the procedure set out in Section H of this Act.

6.4.3. *POV Reports.* If in the process of carrying out a Presbytery Oversight Visit of a Congregation an issue of Discipline, Capability for Ministry or Congregational Health is identified, the Presbytery shall bring the matter to the attention of the Chairman of the Conduct and Complaints Committee who will convene the Triage Group.

**7. Pastoral Care.** At the same time as a Triage Group is convened, the Chairman will contact the Church Court with Jurisdiction and the *Board of Ministry* to advise that a Complaint has been received and request that they ensure appropriate pastoral care is provided.

7.1. *The Presbytery.* The *Presbytery's Pastoral Team* will put in place arrangements for appropriate pastoral care with the approval of the *Board of Ministry*.

7.2. *The Kirk Session.* In a case involving an Elder or Deacon, a referral will be made by the Kirk Session to the *Presbytery Pastoral Team* to put in place appropriate pastoral care.

7.3. *Board of Ministry.* The *Board of Ministry* will ensure that appropriate pastoral care is in place through its *Reference Team*. Where the *Board* is not satisfied with the arrangement of the *Presbytery's Pastoral Team* or are of the view that it is more appropriate in the circumstances of the case to call on those out with the Presbytery to provide *Pastoral Care*, they may intervene and make alternative arrangements.

7.4. *Recipients of Pastoral Care.* A person who is unsatisfied with the *Pastoral Care* provided may also make their concerns known to the *Board of Ministry Reference Team*.

7.5. *Confirmation.* The *Board of Ministry* will report back to the Conduct and Complaints Committee that *Pastoral Care* is in place but will maintain confidentiality and will not be required to report on the content of any pastoral care.

7.6. *Recipients.* The following will be provided with appropriate pastoral care:

7.6.1. The Respondent and his family.

7.6.2. Any Complainant(s) and their family.

7.6.3. Any witnesses in respect of the *Complaint*.

7.6.4. The Congregation, bearing in mind the need for confidentiality.

7.6.5. Any Office-bearers involved in the *Complaint*.

7.7. *Congregational Health.* In cases involving Congregational Health, pastoral care will be provided to the Minister and the Elders of the Congregation.

7.8. *Caretaker Minister.* The *Board of Ministry*, in consultation with the Presbytery and the *Mission Board*, may appoint a Minister as caretaker to provide pastoral care to a Congregation for a defined period if they consider this necessary. They may request that the Board of Trustees makes available budgetary provision for the *Caretaker Minister*.

7.9. *Conflict of Interest.* Anyone appointed by the *Presbytery Pastoral Team* or by the *Board of Ministry* to provide pastoral care will not participate in any procedure before a Church Court relating to the discipline case even if they are members of the Church Court.

**8. Adviser.** The *Board of Ministry* will also ensure that an Adviser has been appointed to assist the Respondent with matters of Church law and procedure.

8.1. *Powers of the Adviser.* During an investigation interview they are not permitted to answer questions on behalf of the Respondent but may ask questions or make clarifying statements. During a *Hearing* they may present the Respondent's defence.

8.2. *Privilege.* The relationship between the *Adviser* and the Respondent shall be governed by privilege and confidentiality in order to enable the Respondent to freely discuss the case with their *Adviser*. This means that *Advisers* cannot disclose the details of their conversations.

**9. Notifying the Respondent.** If the Triage Group determines an *Investigation* is required, the Chairman of the Conduct and Complaints Committee will write to the Respondent to confirm that a Complaint has been received, advising as to its general nature, and providing a list of *Advisers* who the Respondent may approach to receive advice and guidance in relation to Church law and procedure. The Respondent will also be given an overview of the process written in plain English.

**10. Reporting.** The outcome of the Triage Group's assessment will be reported for information to the Principal Clerk and the CEO. *The Investigation Group* will report to the Kirk Session or Presbytery on a monthly basis.

**11. Investigation Group.** The Investigation Group will be appointed by the Conduct and Complaints Committee in consultation with the Triage Group.

11.1. *Membership.* Members of the Investigation Group will be appointed who have appropriate experience depending on the nature of the *Complaint*. At least one woman and one man will always be appointed to the Investigation Group.

11.2. *Co-opted Members.* Normally, members of the Conduct and Complaints Committee will be appointed to the Investigation Group. However, where the circumstances require it or particular expertise is required, others can be co-opted onto the Investigation Group or may act as *Advisers*. The typical size of an Investigation Group will be three people including a female member.

11.3. *Remit.* The remit of the Investigation Group is to investigate the matter and prepare a report on their findings.

11.4. *Exclusions.* No one will be appointed to the Investigatory Group who is a member of the same Presbytery as the Respondent or a member of any local Congregation within the same Presbytery.

11.4.1. *Exception.* The exception to the rule in Paragraph 10.4 occurs in a case of Capability or Congregational Health where the Investigation Group will be appointed by the Presbytery and will be supported by the Conduct and Complaints Committee. In these cases, the Chair of the Investigation Group will be a member of the Presbytery.

## SECTION E – INVESTIGATION OF A POTENTIAL DISCIPLINARY MATTER

**1. The Court of Jurisdiction.** If the decision is made to commence with an *Investigation*, the Chair of the Investigation Group will report to the Kirk Session or Presbytery that they are conducting an *Investigation*.

**2. The Respondent.** The Investigation Group will again intimate in writing to the Respondent the terms of the *Disciplinary Complaint* and advise on the next steps.

2.1. *Response.* They will ask the Respondent to provide a written response to the Complaint within fourteen days and they will invite the Respondent to an interview with the Group.

2.2. *Extension.* The Respondent may request in writing more time to respond to the Complaint and will be given a maximum of twenty-eight additional days to respond.

2.3. *Failure to Respond.* Where the Respondent fails to respond or refuses to respond this will be noted in the final report

**3. Respondent's Adviser.** At any investigatory interview the Respondent's *Adviser* may be present.

**4. Witnesses.** The Investigation Group will also contact the Complainant(s) and any other *Witnesses* to take statements (which shall be read over by and signed by the *Witnesses*) and collect any other evidence. They may also record the full interviews with the *Witnesses* with the permission of the *Witnesses*.

**5. Further Allegations.** If, during the investigation, the Investigation Group becomes aware of further allegations against the Respondent, which may constitute a Disciplinary Offence, then they shall also investigate those allegations.

**6. Time Limits.** In the interest of all parties, the Investigation Group shall complete the Investigation as soon as reasonably practicable. They shall carry out an Investigation and prepare a report not later than three months from the date that the Chairman received the Complaint.

6.1. *Special Circumstances.* Where there are special circumstances which mean the *Investigation* cannot be concluded in three months, the Investigation Group will report to the Kirk Session or Presbytery the reason for the delay and will notify the Respondent and the Complainant.

6.2. *Delay.* The Kirk Session or Presbytery will decide whether the delay is reasonable and will declare a new time limit.

**7. Support for those Investigating.** Members of the *Investigation Group* may require taking a leave of absence from other duties within the Church, including pastoral ministry, while investigating the case. The Principal Clerk in consultation with the Presbytery and the CEO is empowered to grant such requests.

## SECTION F – REPORT OF THE INVESTIGATION GROUP

1. **Report.** The Investigation Group will prepare a report on their investigations to include the following:
  - 1.1. *Parties.* The report will include details of the Complaint, the Complainant, and the Respondent.
  - 1.2. *A Case to Answer.* The report will include the recommendations of the Investigation Group as to whether there is a Case to Answer.
  - 1.3. *A Charge.* The report will include details of the appropriate *Charge*. The *Charge* may relate to a course of conduct instead of any one incident. The Investigation Group may consult the Church’s Solicitor for advice on the wording of the *Charge*.
  - 1.4. *Evidence.* The report will include the evidence on which the *Charge* is based but will, as far as possible, maintain the confidentiality of the *Witnesses*.
2. **Review of Report.** The report will be reviewed by a member of the Conduct and Complaints Committee who has not been involved in the Investigation This will usually be the Presenter of the Case.
3. **No Case to Answer.** Where the report concludes there is no Case to Answer this will be reported to the Kirk Session or Presbytery with Jurisdiction who will meet within twenty-one days to decide whether they agree there is No Case to Answer. Where the Kirk Session or Presbytery declares there is no Case to Answer, the procedures under this Act will cease unless there is a request for *Review* or a *Dissent and Complaint*.
4. **Complainant.** The Investigation Group will update the Complainant on the progress of the Complaint. However, they will not provide the Complainant with a copy of the report to maintain confidentiality.
5. **Respondent.** A copy of the report will be sent to the Respondent with a letter asking them to give an answer to the Complaint and the *Charge*. The Respondent will be asked to give their response to the letter in writing within twenty-one days.
  - 5.1. *Office-bearers.* The Respondent as an Officer-bearer within the Church has agreed to subject himself to the judicatories of the Church and accordingly owes a duty of candour to Church Courts.
  - 5.2. *A Meaningful Response.* The Respondent is therefore required to give a meaningful answer to the report and to either admit or deny the allegations. Silence is not a meaningful response, and a negative inference can be drawn from silence.
6. **Confession.** Where the Respondent admits the *Charge*, the Presenter of the Case, in consultation with *the* Chair of the Investigation Group, will consider the nature and extent of the confession to satisfy themselves as to whether or not it covers the total allegation or allegations.
  - 6.1. *A Genuine Confession.* If they are satisfied the Confession covers the total allegation or allegations and that the Confession is genuine, they will ask the Clerk of the Kirk Session or Presbytery to convene a meeting to consider the report and the Confession, along with their recommendation as to an appropriate outcome in accordance with Section C Paragraph 7.
  - 6.2. *Kirk Session or Presbytery.* In considering the appropriate outcome in accordance with Section C Paragraph 7, the Kirk Session or Presbytery will have due regard to whether they believe genuine repentance on the part of the Respondent.
  - 6.3. *Mitigating Circumstances.* They will also hear from the Respondent and / or *their Adviser* as to whether there are any mitigating circumstances. It may be necessary to obtain a medical report or other evidence to support the existence of mitigating circumstances.
  - 6.4. *Aggravation.* They will also consider whether there has been any aggravation as part of the offence. They may take up victim impact statements to assist in this process.
  - 6.5. *Female Adviser.* The Kirk Session or Presbytery will appoint a suitably experienced *Female Adviser* to the Court who can take part in any discussions regarding an appropriate outcome but who will not have the right to vote.
7. **Denial.** Where the Respondent denies the *Charge*, the Presenter of the Case will notify the Clerk of the Kirk Session or Presbytery of the need for a *Disciplinary Hearing*.

## SECTION G – THE DISCIPLINARY HEARING

1. **Preliminary Matters.** The Kirk Session or Presbytery will hold a special meeting immediately after receiving notification from the Presenter of the Case for the purpose of making arrangements for the *Disciplinary Hearing* to be held no sooner than twenty-eight days’ time and no later than three months’ time.

1.1. *Citation.* The Clerk of the Kirk Session or Presbytery will issue Citations to the Respondent, Complainant, and all *Witnesses*. He will also notify the Presenter of the Case of the date of the *Hearing*.

1.2. *Different Kinds of Citation.* There are two kinds of Citation:

1.2.1. The first kind is a *Citation* delivered openly in the Court to those involved who are present at the time when the decision is taken to issue the *Citation*. The *Citation* should be minuted.

1.2.2. The other *Citation* is a formal written summons requiring attendance at a Church Court and delivered to the person named or to his/her dwelling and the fact of its being so delivered duly certified. Such certification may be made by someone appointed by the Court to deliver the *Citation*, or by use of Registered Mail, or recorded delivery using the facility which involves official notice from the Post Office that delivery to the address has been made. The Court should minute at its next meeting the receipt of appropriate confirmation from the person appointed or the company so contracted.

1.3. *Failure to Appear.* When the Court is ready to proceed with the case and has been satisfied that all *Citations* have been duly delivered it calls all parties concerned before it. If a person duly cited does not appear at the time and place specified, a second *Citation* should be served.

1.4. *Contumacy.* Where a person duly cited two times, fails to appear or to give a satisfactory reason for non-appearance they are liable for *censure* for *Contumacy*. For the avoidance of doubt, one of the two citations may be the *Citation* delivered openly before the Court.

1.5. *Female Adviser.* In any case proceeding to a *Hearing*, the Kirk Session or Presbytery should appoint a suitably experienced *Female Adviser* to the Court who can take part in any discussions of the Kirk Session or Presbytery regarding their decision but who will not have the right to vote.

1.6. *Training.* Prior to the *Hearing*, the Principal Clerk will arrange for appropriate training to be provided to members of the Church Court who will be making the decision. Only members of the Church Court who have participated in the training can take part in the *Hearing* and make the decision. The Principal Clerk will also appoint an *Independent Adviser* to the Court to advise on procedure.

1.7. *Questioning the Witness.* The Kirk Session or Presbytery should empower three people to question the *Witnesses* on behalf of the Court during the *Hearing*. One of these three people should be the *Female Adviser* to the Court. Any other member of the Kirk Session or Presbytery who has questions should pass them to these designated questioners. The Moderator shall not be one of these people as they will be responsible for chairing the *Hearing*.

1.8. *Disclosure.* The Presenter of the Case will note the requirement that each party in the *Hearing* is required to disclose any documents that may be considered relevant to the case. They will also provide the Respondent with a list of *Witnesses* for the *Hearing*. This disclosure should take place within seven days of a hearing being arranged.

## **2. Legal Representation.**

2.1. *The Presenter of the Case.* The Presenter of the Case, in consultation with the Principal Clerk and the CEO, may, owing to the complexity of a case, decide to appoint *Legal Representation* to prosecute the case on behalf of the Presenter of the Case.

2.1.1. In a case where it is decided to appoint *Legal Representation*, the Respondent will have an automatic right to appoint *Legal Representation* to ensure fairness.

2.1.2. In all cases where the Respondent appoints *Legal Representation*, the Presenter of the Case may also decide to appoint *Legal Representation*.

2.2. *Respondent.* The Respondent will be informed of their right to ask for *Legal Representation* where the case is sufficiently complex. In all other cases they must seek the permission of the Principal Clerk who will, in consultation with the CEO, determine if the case is sufficiently complex to warrant the appointment of *Legal Representation*.

2.2.1. Where permission to appoint *Legal Representation* as in Paragraph 2.2 above is not given, the Respondent may fund their own *Legal Representation*.

2.2.2. Where the Respondent does not have *Legal Representation*, their *Adviser* may assist in representing them or they may represent themselves. However, in a case involving sexual misconduct or abuse, the Respondent is prohibited from questioning any of the *Witnesses* (their *Adviser* or *Legal Representation* will question the *Witnesses*), although they may still choose to conduct their own defence, particularly making any closing statements.

2.3. *Budgetary Provision.* The Board of Trustees will make budgetary provision to cover the costs of *Legal Representation* for both parties where *Legal Representation* has been appointed in terms of Paragraphs 2.1. and 2.1.1. or where permission has been given to the *Respondent* in terms of Paragraph 2.2.



2.3.1. Where Permission is not granted, but the Respondent proceeds to appoint *Legal Representation* in terms of Paragraph 2.2.1., and the Presenter of the Case exercises their right to appoint *Legal Representation* in response under Paragraph 2.1.2., the Board of Trustees will make budgetary provision to only cover the costs of the Presenter's *Legal Representation*.

**3. List of Witnesses.** Fourteen days before the *Hearing* the Respondent must provide the Investigation Group, the Presenter of the Case, and the Church Court with a list of any additional *Witnesses* whom they have asked to attend the *Hearing* and provide copies of any evidence upon which they intend to rely.

3.1. *Support for Witnesses.* In submitting lists of witness the Presenter of the Case and the Respondent will indicate to the *Church Court* whether any steps need to be taken to assist the witnesses in giving evidence. For example, a vulnerable witness may appear via video link from another room.

3.2. *New Evidence.* Where new evidence comes to light during the *Hearing*, the Court hearing the case must decide whether the evidence materially changes the case. They may suspend the hearing to allow time for all parties to consider the new evidence.

3.3. *Members of the Court.* Any *Witnesses* who are members of the Court will not be entitled to sit as members of the Court at the *Hearing*.

3.4. *Budgetary Provision.* The Board of Trustees will allocate a budget for the expenses of the *Witnesses* attending the *Hearing*.

**4. Continuance.** It is competent for either party to ask the Kirk Session or Presbytery, up to seven days before the start of the case, for a continuance of the *Hearing* to allow more time for the preparation of the case. This may be required if additional *Witnesses* or evidence has been identified by the Respondent. Continuance will be granted at the discretion of Moderator and Clerk of the Kirk Session or Presbytery and will not be withheld unreasonably.

## **5. The Hearing.**

5.1. *Proceedings.* On the date of the *Disciplinary Hearing*, both sides will be allowed to present their case, hear evidence from all *Witnesses*, and allow cross examination of the *Witnesses*.

5.1.1. The Presenter of the Case will present the report of the Investigation Group regarding the Complaint according to the provisions of Paragraph 2.1 above as required in each case.

5.1.2. The case of the Respondent will be presented according to the provisions of Paragraph 2.2 above.

5.2. *Recording.* The proceedings at the *Hearing* will be recorded. At the end of the proceedings all recordings will be securely stored by the Conduct and Complaints Committee.

5.3. *Private Hearing.* The *Disciplinary Hearing* will be conducted in private.

5.4. *Public Announcement.* The decision of the *Disciplinary Hearing* is public and will be communicated to the Church as a whole.

5.4.1. The Church Court, in consultation with the Free Church Communications Manager, will decide on any communication to the media or responses to requests for comment.

5.4.2. No member of a Church Court should discuss the matter with the media without the permission of the relevant Church Court.

**6. Review.** Where an *Appeal, Dissent and Complaint* or *Request for Review* is made, no public statement of the outcome will be made either within the Church or to the media until after the Higher Court has considered the case.

**7. Solemn Assurance.** All who are about to give evidence before a Kirk Session or Presbytery shall be required to give a solemn assurance before doing so that they will speak the truth, that they have no malicious motive and are not knowingly biased.

**8. Closing Statements.** The Presenter of the Case and the Respondent or their representatives will be entitled to make closing statements to the Kirk Session or Presbytery once all the evidence has been heard. After which point, they will be asked to leave the room while a decision is reached.

**9. Hearing Regulations.** The Principal Clerk, in consultation with Conduct and Complaints Committee, is empowered to prepare regulations on how a *Hearing* should be conducted, provided that such regulations shall be laid before and be subject to alteration, revocation, amendment or modification by the General Assembly or its Commission. These regulations will include rules of evidence, make provision for vulnerable *Witnesses* giving evidence, and give details on how evidence can be taken where a *Witness* is unable to attend the *Hearing* due to age, illness, or location.

**10. Decisions.** At the end of the *Hearing* the Kirk Session or Presbytery will reach a decision on the formal *Charge* through private discussion in accordance with the principles of evidence in Section C Paragraph 5. The *Female Adviser* and the *Independent Adviser on Procedure* will be present at this discussion. The decision will be reached by majority.

10.1. *Complex Cases.* In complex cases, the Kirk Session or Presbytery may adjourn to give themselves time to consider their decision and shall appoint a date (within 7 days) for a future meeting where they will reach their decision.

10.2. *The Record.* The Kirk Session or Presbytery should record their decision along with the reasons for their decision. This will be an official minute of the Court.

10.3. *Not-guilty Verdict.* If the Respondent is found not guilty the reasons for this decision will be clearly stated and communicated within the wider Church - this is important for restoring the reputation of someone who has been wrongfully accused.

10.4. *Guilty Verdict.* If the Kirk Session or Presbytery find the Respondent guilty, they will then decide on the appropriate outcome. The outcomes available to the Court are outlined in Section C Paragraph 7.

10.4.1. Before deciding on the outcome, they will hear from the Respondent as to whether there are any mitigating circumstances and consider whether there has been aggravation.

10.4.2. It may be necessary to obtain a medical report or other evidence to support the existence of mitigating circumstances or aggravation. They may obtain victim impact statements.

10.5. *A Final Decision.* The decision of the Kirk Session or Presbytery will be final, unless an *Appeal, Request for Review* or a *Dissent and Complaint* is raised.

## **SECTION H – PROCEDURE IN CASES RELATING TO CONGREGATIONAL HEALTH**

**1. Investigation.** Where the Triage Group concludes a matter relates to Congregational Health the *Investigation Group* will report on the matter to the Presbytery having responsibility for oversight of ministry in the area.

1.1. Presbytery. The Presbytery will appoint a Committee to consider the report of the Investigation Group and to carry out further investigation in seeking to resolve the situation. The Committee will be chaired by a member of the Presbytery.

1.2. Investigation Group. At least one member of the *Investigation Group* will be appointed to the Presbytery Committee.

**2. Course of Action.** The Presbytery will decide on an appropriate course of action. The Conduct and Complaints Committee will produce guidance outlining options available to Presbyteries, particularly with a view to deescalating the situation.

**3. Support.** Mediation may be provided for the *Congregation*, and other forms of support which are deemed appropriate, to try and restore harmony in the *Congregation*.

**4. The Record.** If the various steps to address the issues should fail, then the Presbytery must record in their minutes a statement of the facts, the steps taken by the Presbytery, and the results.

**5. A Hearing.** Presbytery may decide at this point to proceed with a *Hearing* at Presbytery of the various parties. The Investigation Group will continue to provide support to Presbytery on how best to proceed.

5.1. *The Finding.* If at the *Hearing*, the Presbytery conclude that the ends of the ministry are not being served, and that the state of the Congregation is due to defects or mismanagement personal to the Minister, and/or may be due to the fault of any Office-bearers or members of the Congregation, they will record this in their minutes.

5.2. *Improvement Plan.* The Presbytery will consider whether any additional steps may be taken to improve the situation. The Presbytery should consult the Mission Board for support in preparing an improvement plan.

5.2.1. Where the Presbytery is able to put in place an Improvement Plan, they will communicate their recommendations to the Congregation, Office-bearers and Minister and provide support in implementing the Plan.

5.2.2. The Presbytery will review the situation six months after the implementation of the Improvement Plan.

5.3. *Removal of Parties.* Where the Presbytery see no possibility of improvement without the departure of either the Minister, any of the Office-bearers, or Members of the Congregation, they will initiate appropriate action to remove those parties from the Congregation.

5.3.1. *The Minister.* Where it appears the issues relate to defects or mismanagement on the part of the Minister (but which does not amount to a disciplinary offence), they will hold a further *Hearing* for the purpose of deciding whether the

pastoral tie should be dissolved. The Minister will be present at the *Hearing* and will be given an opportunity to address the Presbytery on the issues.

5.3.1.1. If the Presbytery decide to dissolve the pastoral tie, they will inform the Principal Clerk and the CEO by extract of proceedings giving the reasons and requesting that the Minister's name be added to the Roll of Ministers without Charge.

5.3.1.2. On the dissolution of the pastoral tie, the Minister will be entitled to six months stipend, or stipend until such time as they receive a call, whichever is sooner. If the Minister is within ten years of state pension age, has given at least ten years' service to the Church, and chooses to retire, a request may be made to the Board of Trustees for additional financial support.

5.3.1.3. The Minister will not be expected to immediately leave the manse and the Presbytery, Congregation and Minister will agree how long the Minister and his family may continue to occupy the manse.

5.3.2. *Office-bearers.* Where it is apparent that the issues relate to defects or mismanagement on the part of an Office-bearer, or Office-bearers, the Presbytery may remove the Office-bearer from office following a *Hearing* where the Office-bearer will be given the opportunity to address the Presbytery.

5.3.3. *Members.* Where it is apparent that the issues relate to a member or members of the Congregation, the Presbytery will consider what action is appropriate in each case. The members will be entitled to address the Presbytery on the matter before a decision is taken.

5.3.3.1. The Presbytery may consider an Admonition is appropriate in the circumstances of this case and the actions which have led to the current situation.

5.3.3.2. The Presbytery may order that they be relieved of all public functions entrusted to them in the Congregation.

5.3.3.3. The Presbytery may encourage the Member or Members to consider attending another Congregation in the interests of the gospel.

**6. Disciplinary Offence.** If at any time the members of *Investigation Group* become aware of evidence of a *Disciplinary Offence* on the part of anyone to whom this Act would apply, they will immediately refer the matter to the Chairman of *The Conduct and Complaints Committee* who will then proceed as in any other case of a *Disciplinary Offence*.

## SECTION I – GLOSSARY OF TERMS

The following definitions shall apply within this Act:

1. **Admonition** means an exhortation to more careful and worthy conduct, accompanied by counselling against sin. It is the lightest form of Church *censure*.
2. **Adviser** means a Minister or Elder, selected from a list maintained by the Conduct and Complaints Committee, who acts as an Adviser to a Respondent in relation to Church law and procedure.
3. **Assistant Clerk** means an assistant to the Principal Clerk of the General Assembly.
4. **Bullying** means conduct amounting to offensive, threatening, abusive, malicious, intimidating, or insulting behaviour that may be an abuse or misuse of power, position or knowledge through means that undermine, humiliate, denigrate, or injure the person concerned and which is behaviour occurring in circumstances where it would appear to a reasonable individual that it would amount to bullying of that person.
5. **Capability for Ministry** means the ability of a Minister to fulfil the requirements of ministry. Capability for Ministry is usually regarding an issue over which they have no control. For example, if a person becomes unable to fulfil their ministry due to an illness or disability and adjustments or support cannot help. However, Capability for Ministry is not exclusively related to health.
6. **Case to Answer** means that there is sufficient evidence (in accordance with Section C. Paragraph 5) to prosecute the Respondent based on the report.
7. **Church** means the Free Church of Scotland.
8. **Church Court** means the Kirk Session, the Presbytery, the Commission of Assembly, and the General Assembly, as the case may be.
9. **Citation** means an order given by the Session Clerk or Presbytery Clerk for the Respondent, Complainant, and all Witnesses to appear at a Hearing of a Church Court.
10. **Commission** means a Commission of the General Assembly as appointed from time to time.
11. **Complainant** means the person making the Complaint.

- 12. Complaint** means a notice of a potential Conduct Disciplinary Offence, or an allegation of Heresy against anyone to whom this Act applies (see Section C, Paragraph 3). A Complaint can also relate to a matter of Congregational Health. Where a Complaint relates to a decision of a Church Court, Deacons' Court, or Finance Committee, the Complaint should proceed under existing review processes such as Appeal and Dissent and Complaint and will not be dealt with by the procedures in this Act.
- 13. Conduct and Complaints Committee** means a committee established under Section C, Paragraph 1 of this Act.
- 14. Conduct Disciplinary Offence** means conduct which is either:
- 14.1 Declared contrary to, and censurable by, the Word of God, or
- 14.2 Declared censurable by an Act or universal custom of the Church which is agreeable to the Word of God.
- 14.3 For the avoidance of doubt Harassment, Victimisation, and Bullying are censurable as they are contrary to, and censurable by, the Word of God and Contumacy is censurable as a Universal Custom of the Church.
- 15. Congregation** means a congregation of the Free Church of Scotland.
- 16. Congregational Health** means an issue in a Congregation where it is not always easy to identify the root cause – often we can observe the symptoms of an unhealthy situation, but investigation is required. Evidence of an issue of Congregational Health may include an undue falling away of attendance at public worship and/or undue withdrawal of financial support of the Congregation. It may also relate to a break down in the relationships in the Congregation.
- 17. Contumacy** means the deliberate defiance of the authority of a Church Court. This includes:
- 17.1 A breach of an order or instruction of any Church Court (including failure to appear before a Church Court when duly cited).
- 17.2 A refusal to accept, or an attempt to subvert, the authority of any Church Court.
- 17.3 Breach of the confidentiality of a Church Court or Committee (this includes the issuing by any person of any form of statement about, or details concerning, an alleged offence, or participating in any interview or discussion with the media or publishing any material on social media regarding an alleged offence unless authorised to do so by the Court); and
- 17.4 Covert recording of Church Court proceedings.
- 18. Conflict of Interest** means a connection between either the Complainant, or the Respondent, or any Witness involved in the process, and anyone acting at any stage under this Act, which could compromise that person's judgment, decisions, or actions. For example, a family relationship or a personal friendship is classed a connection that raises potential conflict.
- 19. Companion** means the person who accompanies a Respondent, Complainant or Witness when they appear before any Church Court or Committee in the Church.
- 20. Deacon** means an ordained Deacon as defined in Section C, Paragraph 3.5 of this Act.
- 21. Elder** means an ordained Elder as defined in Section C, Paragraph 3.4 of this Act.
- 22. ETS** means Edinburgh Theological Seminary.
- 23. General Assembly** means the General Assembly of the Free Church of Scotland.
- 24. Harassment** means unwanted physical, verbal, or non-verbal conduct which has the purpose or effect of violating the dignity of another person made in the image of God or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. In deciding whether conduct has that effect, consideration shall be given to the perception of that person, the other circumstances of the case and whether it is reasonable for the conduct to have the said effect.
- 25. Hearsay** means information that an individual has heard from other people but does not know from their own experience whether or not it is true. An example would be a Witness telling you what they saw – in that case you can give evidence that they told you what they saw but not whether or not they actually did see it.
- 26. Heresy** means a gross error of doctrine held and divisively maintained by someone within the Church which is in opposition to any substantial truth or truths grounded upon the Word of God and the system of doctrine found in the Westminster Confession of Faith. Where an error is pointed out to someone from Scripture, and they allow their thinking to be transformed by Scripture, they are not guilty of Heresy.
- 27. Investigation Group** means an investigation Group appointed in accordance with Section D, Paragraph 10 of this Act.

28. **Jurisdiction** means the power to make decisions and judgements in relation to particular matters or individuals over which the Church Court has oversight as defined in Section C, Paragraph 4 of this Act.
29. **Kirk Session** means the kirk session of a Congregation.
30. **Legal Representation** means suitably professionally qualified individuals who can present a case on behalf of either the *Presenter of the Case* or the *Respondent*. This may include the involvement of solicitors and/or advocates.
31. **Low-Level Complaint** means a Complaint that has no serious purpose or value. Often a Low-Level Complaint is one about a matter so trivial or one so meritless on its face that investigation would be disproportionate in terms of time and cost. Someone who repeatedly brings Low-Level Complaints could themselves be subject to discipline procedures.
32. **Malicious Witness** means a Witness who has been shown to have deliberately given false testimony with the intention of causing harm to an individual or their reputation. Deuteronomy 19:16-21 makes clear a Malicious Witness should themselves be subject to discipline. However, it is not the case that every mistaken Witness is automatically malicious, and care should be taken not to discourage Complainants from bringing Complaints through the fear of discipline. The intention to cause harm and to act with malice requires to be proven to the same standard of evidence as any other discipline case.
33. **Minister** means an ordained minister as defined in Section C, Paragraph 3.1 of this Act.
34. **Nominated Female Representative** means a female member of the Conduct and Complaints Committee appointed by the Conduct and Complaints Committee to receive Complaints in accordance with Section C, Paragraph 1.3.4 of this Act.
35. **Presbytery** means the presbytery to which the Congregation of the Respondent belongs.
36. **Presenter of the Case** means a member of the Conduct and Complaints Committee who will serve as prosecutor to present the case before the Church Court. Usually this will be the Chairman or Vice-Chairman of the Committee. The Presenter of the Case must not have been involved in the Investigation Group. They will also review the report of the Investigation Group before it is presented to the Presbytery or Kirk Session.
37. **Principal Clerk** means the Principal Clerk of the General Assembly.
38. **Rebuke** means a more serious form of Admonition, declaring conduct sinful, and exhorting the Respondent to cease such sin in the future. It may be administered before the Kirk Session or Presbytery or before the Congregation.
39. **Respondent** means the person who is the subject of a Complaint.
40. **Sist.** To *sist* a case means to delay or suspend proceedings for a period. (See Section C, Paragraph 10)
41. **Subjects of Discipline** means the parties who are subject to investigation and discipline in terms of this Act as detailed in Section C, Paragraph 3.
42. **Suspension from Office** means a suspension of a person's status as an office-bearer of a Congregation. Suspension from Office may endure for a limited period of time or indefinitely.
43. **Suspension of Privileges** means denial of access to the Lord's Supper and to be denied the Sacrament of Baptism for one's children. Suspension of Privileges may endure for a limited period of time or indefinitely. Restoration of Privileges is not automatic but depends on the Court being persuaded that the offender is truly penitent.
44. **Temporary Suspension** means suspension of a Respondent while awaiting the outcome of a Complaint process. For the avoidance of doubt, Temporary Suspension shall not constitute or form a part of any form of *censure* and is without prejudice to the matter under investigation. In the case of a Minister or staff member of ETS, the stipend will continue to be paid as long as he remains in his Congregation or appointment. Temporary Suspension is not required in every Complaint. It depends on the seriousness of the allegation and the need to protect the public.
45. **Theological Committee** means a body established from time to time to prepare a report on any theological question relevant to a charge of Heresy. The Theological Committee will be appointed by the Principal Clerk, the Principal of Edinburgh Theological Seminary, and the Chairman of the Conduct and Complaints Committee. They can appoint as many people as they deem appropriate. Those who are not Office-bearers in the Free Church of Scotland can be appointed as Advisers to the Committee.
46. **Triage Group** means a group formed under the authority of the Conduct and Complaints Committee in terms of Section D, Paragraph 5 of this Act.
47. **Victimisation** means subjecting another person to a detriment because that person has brought a Complaint under this Act, given evidence or information in connection with proceedings under this Act, or done any other thing for the purposes of or in connection with this Act, unless that person acted with malicious intent in so doing.

## **SECTION J – REPEALS**

The General Assembly hereby repeal:

1. Act 1, 2008 (Class I) – Act anent interviewing Women, Children and Vulnerable Adults.
  2. Act 8, 1994 – Act anent the Practice – Supplement to Chapter on Discipline.
  3. Act 1, 1990 (Class I) – Act anent Problem Ministries (Repealing Act 3, Class I, 1892).
  4. Act 27, 1978 – Act anent Definitions for Inclusion in “The Practice”.
  5. Act 28, 1978 – Act anent Statement of Principle in regard to Discipline.
  6. Act 6, 1912 – Act anent Revision of Libels.
  7. Act 14, 1860 – Act anent Revisal of Libels when a Presbytery are the Libellers.
  8. Act 15, 1860 – Act anent Revisal of Libels when any party or parties other than the Presbytery, are the Libellers.
  9. Act 8, 1854 – Act anent Correction of a Libel by the General Assembly.
  10. Act 4, 1853 – Act anent Complaints and Appeals not Sisting Procedure in Cases of Libel against a Minister.
  11. Act 5, 1853 – Act anent Judging as to the Relevancy of a Libel against a Minister where the Presbytery are Libellers.
  12. Act 6, 1852 – Act anent The Form of Process in respect to a Minister ceasing to exercise his Functions after being served with a Libel.
  13. The ancient practice of an “Oath of Purgation” is also abolished as not having any Scriptural warrant.
2. The General Assembly, noting the risks inherent in the Church’s disciplinary procedures, declare the provisions of the said Overture on Conduct, Complaints and Discipline of Office-bearers to be an Interim Act operative until the Assembly receives responses to the Overture.
3. The General Assembly declare that all complaints raised prior to the 2023 General Assembly will continue to be processed under the terms of Act 2, Class 1, 2010 anent the Judicial Commission.

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### **Act 25 – Amending Act 23, Class 2, 2021 – Journey into Ministry**

Number 24 of Class 2

**Category: Governance**

**Thursday 25th May 2023**

1. The General Assembly declare that the requirements regarding the communicant membership of an Applicant for recognition as a Candidate for the Free Church Ministry in Act 23, Class 2, 2021 anent Journey into Ministry be revised. They instruct that Section B, Paragraphs 1.3 and 1.4 be deleted and the following inserted as new Paragraph 1.3: ‘to have been a Communicant Member of a Free Church congregation for a minimum of six months prior to interview date with the Board of Ministry or have, within the last ten years, been a member of a Free Church congregation for a minimum of two years.’
2. The General Assembly declare that the latest date by which an Application Form for a Candidate of the Free Church Ministry is submitted by a Kirk Session in Act 23, Class 2, 2021 anent Journey into Ministry be revised. They instruct that Section B Paragraph 2.4 be revised to read as follows: ‘In order to begin studies at Edinburgh Theological Seminary in September the Application Form must be processed by the Kirk Session by the end of January of the same year.’
3. The General Assembly declare that the exceptions to the requirements for all Candidates for the Free Church Ministry in Act 23, Class 2, 2021 anent Journey to Ministry, be revised. They amend Section D, Paragraph 3 to read as follows:
  3. Exceptions to the requirement for all candidates to complete the full BTh can be made in particular circumstances:
    - 3.1. When the Candidate has already completed theological studies, he will normally be required to undertake courses at ETS as instructed by the Board of Ministry.
    - 3.2. Members of the Board, including those who are ETS staff members, will examine the equivalence of the candidates' prior education and determine the provision that needs to be made in order to reach equivalence to that normally

provided at ETS. ETS members will report to the Board with recommendations as to what courses at ETS should be taken (and passed) prior to being eligible for licensing. Particular consideration should be given to the following areas:

3.2.1. The academic level of the prior theological education.

3.2.2. Whether the Applicant's prior theological education was at a Reformed Seminary committed to the Westminster Confession of Faith.

3.2.3. Whether the Applicant's prior theological education included courses on Systematic Theology, Biblical Studies (Old and New Testament), Church History (including Scottish Church History), Practical Theology. (The Board of Ministry can, in exceptional circumstances, waive the requirement to study the Biblical languages.)

3.2.4. Whether the Applicant's performance in assessments in their prior theological education displays a suitable level of attainment.

3.3. The Board will identify both the number of courses to be studied and the period of time taken to complete these. Adequate time must be set out to allow Applicants time to prepare adequately for all aspects of Free Church Ministry, to become known to the Church more widely, to fulfil their required local church training and placement(s), and to gain supplementary training in academic and practical areas of ministry preparation.

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### **Act 26 – Amending Act 21, Class 2, 2022 – Training for Ministry**

Number 25 of Class 2

**Category: Governance**

**Thursday 25th May 2023**

The General Assembly declare that the expectations of a Candidate for the Free Church Ministry to undertake preaching duties as in Act 21, Class 2, 2022 anent Training for Ministry be revised. They instruct that Section B Paragraph 1.6 be amended to read as follows: 'Candidates are to preach at least ten times per year, at least six of which are to be in their Training Church. These six sermons will normally include a mini-series of two or three consecutive sermons.'

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### **Act 27 – Amending Act 19, Class 2, 2016 – Recognition of Candidates and Admission of Ministers**

Number 26 of Class 2

**Category: Governance**

**Thursday 25th May 2023**

1. The General Assembly declare that the requirement for Ministers and Probationers from other denominations to complete the Presbyterian Church Ministry Module in Act 19, Class 2, 2016, as amended by Act 22, Class 2, 2021, and Act 23, Class 2, 2021, be revised. They amend Paragraph 2.2 of the said Act to read as follows: 'The Board shall agree to interview the Applicant, and come to a decision on the application if: (1) the Presbytery supports the application and is satisfied that the Applicant is a suitable person to hold a ministerial charge in the Free Church of Scotland; (2) the Applicant commits to complete the Presbyterian Church Ministry module provided by ETS within a timescale agreed by the Board of Ministry; and (3) the Applicant gives an unqualified and satisfactory response to the Questions put to licentiates, and is willing to sign the Formula.' They repeal Act 22, Class 2, 2021.

2. The General Assembly declare that the requirement for notifying Presbyteries of an application from Ministers and Probationers from other denominations in Act 19, Class 2, 2016 anent Recognition of Candidates and Admission of Minister, as amended by Act 22, Class 2, 2021, and Act 23, Class 2, 2021, be revised. They amend Paragraph 2.4.3 of the said Act to read as follows:

'To assist all parties the following deadline shall apply to all applications: (1) Papers relating to an application must be in the hands of the Board of Ministry not less than eight weeks prior to the meeting of the General Assembly or its Commission at which the application is scheduled to finally be disposed of; (2) The Board shall give notice of the application to all Presbyteries, on receipt of the application from the submitting Presbytery, informing Presbyteries of the applicant's name and denominational affiliation. If the above conditions are not met, the application will await the next available Commission or General Assembly. (3) The Presbytery shall communicate any concerns or objections to the supporting Presbytery and to the Board within four weeks of receiving notification.'

## Act 28 – Appointing the Commission of Assembly

Number 27 of Class 2

**Category:** *General Assembly*

*Thursday 25th May 2023*

The General Assembly hereby appoint a Commission consisting of all the members of this General Assembly along with Rev. Derek Lamont named by the Moderator to be their Commission.

### 1. **Appointment**

This Commission is appointed to meet at Edinburgh on Tuesday 3<sup>rd</sup> October 2023 and on Tuesday 5<sup>th</sup> March 2024 at 7 o'clock in the evening, and at other times and places as may be required with power to choose their own Moderator.

1.1. *Quorum.* The quorum shall be any twelve or more of their number, of whom four at least are always to be ministers.

1.2. *Continuance.* This Commission shall remain in being until another Commission is appointed. All members are required to attend the diets of the Commission.

1.3. *Other Church Courts.* The General Assembly declare that no other Court of the Church may meet on the dates on which the Assembly has appointed its Commission to meet.

1.4. *Submission of Documents.* Items of business to be included in the Note of Business of the Commission shall be submitted to the Assembly Clerks' Office at least ten days before the Commission is due to meet.

### 2. **Constituted Meetings**

The General Assembly declare that it shall be competent for the Assembly Clerks, in consultation with the Assembly Business Committee and the Moderator, to decide whether the Commission of Assembly should meet in-person or virtually.

### 3. **General Powers**

The General Assembly empower this Commission to take up and dispose of any matter referred to them by the General Assembly or arising out of any Act or finding of the Assembly in accordance with the instructions given by the Assembly.

3.1 *Interests of the Church.* The Commission shall give attention to the interests of the Church in every respect to ensure that the Church does not suffer or incur any prejudice which it is possible for their powers to prevent, as they will be answerable.

3.2 *Public Engagement.* The Commission shall take up a report from the Public Engagement Group as required to give such a lead as they are able on moral issues and provide advice and assistance to Presbyteries, Board and Committees of the General Assembly.

3.3 *Ministerial Rolls.* The said Commission is authorised to receive and dispose of petitions received from Presbyteries regarding the transference of the name of a minister from the Roll of Resigned Ministers to the Roll of Ministers Without Charge Eligible for Call.

3.4 *Exclusions.* The powers granted above shall not apply to particular affairs or processes before Presbyteries which have only a local relevance and have no reference to the whole Church.

### 4. **Review**

The General Assembly empower this Commission to receive appeals, complaints, petitions and references from individuals and from the lower courts of the Church, and all such matters as were previously directed to Provincial Synods.

4.1 *Procedure.* The General Assembly declare that the procedure for the submission of papers, etc., regarding references, appeals, complaints, and petitions be such that these be forwarded to the Principal Clerk of Assembly for inclusion in the business of the Commission as this is set out in the 2020 Act on the Dissolution of Synods.

### 5. **Admissions**

The General Assembly empower this Commission to receive applications for admission to the Free Church as follows.

5.1. *Applications from Ministers.* The said Commission is hereby authorised to receive and dispose of applications duly submitted through Presbyteries and the Board of Ministry from ministers of other denominations seeking admission to the Free Church ministry



5.2. *Applications from Congregations.* The said Commission is authorised to receive and dispose of applications through Presbyteries from any congregation wishing to join the Free Church of Scotland submitted in accordance with the procedures laid down by the General Assembly.

#### 6. **Mission Board**

The General Assembly empower this Commission to receive applications from the Mission Board as follows.

6.1. *Church Development.* The said Commission is empowered to receive and dispose of applications from church plants to be raised to fully sanctioned charges submitted through the Mission Board.

6.2. *Consolidation.* The said Commission is empowered to receive and dispose of applications from the Mission Board to link or unite two or more congregations following upon a Report from Board.

6.3. *Global Mission.* The said Commission is empowered to receive and dispose of applications from the Mission Board to appoint Ministers and workers in fulfilling the Church's commitment to global mission following a report from the Board.

6.4. *Assistant Ministers.* The said Commission is empowered to receive and dispose of applications for the appointment of an Assistant Minister in a congregation.

#### 7. **Limited Powers**

The General Assembly declare that it is not competent for the Commission to become involved in matters other than those committed and referred to them as above. All their proceedings shall be conducted in accordance with the Acts and Constitution of the Church, avoiding anything which is contrary or prejudicial to such Acts and Constitution.

7.1 *Accountability.* The General Assembly further declare that in all their proceedings they shall be accountable to and censurable by next General Assembly as they may find reason arising from the above introduction to Paragraph 6.

7.2 *Appeals.* The General Assembly affirm that in general terms the findings of the Commission of Assembly are final and not subject to appeal. However, they declare that, in the case of Complaints, Appeals, Petitions, and References, it shall be competent for parties in the review process to appeal to the General Assembly.

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### **Act 29 – Appointing the 2024 General Assembly**

Number 28 of Class 2

**Category:** *General Assembly*

*Thursday 25th May 2023*

The General Assembly appointed the next General Assembly to meet in Edinburgh on Monday 20<sup>th</sup> May 2024 at 6.00pm.

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## ACTS OF THE COMMISSION OF ASSEMBLY

### Act 1 – Admission of Rev. Jeremy Christopher Taylor

Number 1 of Class 2

**Category:** *Mission & Ministry*

*Tuesday 4th October 2022*

1. The General Assembly receive the application for admission to the Free Church ministry from Rev. Jeremy Christopher Taylor.
2. The General Assembly note the requirement of Act 22, Class 2, 2021 that anyone wishing to be admitted as an ordained minister of the Free Church of Scotland must complete the Presbyterian Church Module at ETS prior to their admission. They waive the requirement of the said Act in this case in light of a commitment inadvertently made to Mr Taylor. They instruct that Mr Taylor completes the Presbyterian Church Module as soon as is practically possible after his admission, and necessarily within two years.
3. The General Assembly admit Rev. Jeremy Christopher Taylor as a Minister of the Free Church of Scotland. They instruct the Presbytery of Edinburgh and Perth to meet with Mr Taylor as soon as practically possible to ask the prescribed Questions and to sign the Formula on receiving satisfactory responses.
4. The General Assembly instruct the Presbytery to inform the Principal Clerk by extract of the proceedings that Mr Taylor has signed the Formula. They direct that the Principal Clerk add the name of Rev. Jeremy Christopher Taylor to the Roll of Ministers Eligible for Call on receipt of the extract.
5. The General Assembly direct that documents supporting the application to be held *in retentis*.

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### Act 2 – Union of Blackwood and Kirkmuirhill and East Kilbride

Number 2 of Class 2

**Category:** *Mission & Ministry*

*Tuesday 4th October 2022*

The Commission of Assembly receive the Petition of the Presbytery of Glasgow and Argyll regarding Blackwood and Kirkmuirhill and East Kilbride and grant its crave. They unite the congregation of East Kilbride with the congregation of Blackwood and Kirkmuirhill with one Kirk Session and one Deacons Court. They declare that the united charge be known as Blackwood and Kirkmuirhill. They further declare that Rev. Ian M. Watson be the Minister of the united charge with his appointment continuous with his original induction according to the provisions of Act 1, Class 1, 2018 anent the Sustentation Fund. They instruct the Presbytery to meet with the united congregation at the earliest available opportunity to formally constitute them as the new congregation of Blackwood and Kirkmuirhill. They instruct the Kirk Session of the united congregation to work with the Mission Board in seeking to redevelop the ministry of the gospel in the town of East Kilbride. They direct that the assets currently held by the congregation of East Kilbride, and any income arising from their sale or use, be ring-fenced for future ministry in the town of East Kilbride and the surrounding area.

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### Act 3 – Linkage of Burghead and Elgin and Forres

Number 3 of Class 2

**Category:** *Mission & Ministry*

*Tuesday 4th October 2022*

The Commission of Assembly receive the Petition of the Presbytery of Inverness, Lochaber and Ross regarding Burghead and Elgin and Forres and grant its crave. They link the congregation of Burghead with the congregation of Elgin and Forres, with one Kirk Session and one Deacons' Court. They declare that the linkage to take effect upon the retirement from the ministry of Rev. Colin Morison in the Spring of 2023.

#### **Act 4 – Assistant Minister at Cornerstone**

Number 4 of Class 2

**Category:** *Mission & Ministry*

**Tuesday 4th October 2022**

The Commission of Assembly receive the Petition of the Presbytery of Edinburgh and Perth regarding Cornerstone and grant its crave. They grant permission to the congregation of Cornerstone Edinburgh to call an Assistant Minister in terms of Act 18, 2013 act Anent Assistantship with such permission to expire at the October 2024 Commission of Assembly if no appointment is made.

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#### **Act 5 – Christ Church Glasgow**

Number 5 of Class 2

**Category:** *Mission & Ministry*

**Tuesday 4th October 2022**

The Commission of Assembly receive the Petition of the Presbytery of Glasgow and Argyll and grant its crave. They terminate the Church Plant status of the congregation of Christ Church Glasgow and place the congregation on the Equal Dividend Platform as a fully sanctioned charge under the ongoing ministry of Rev. Jonathan de Groot. They declare that Mr de Groot's appointment be continuous with his original induction to the charge, and that it be without restriction according to the terms of Act 1, Class 1, 2018, Paragraph 3.3.

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#### **Act 6 – Judicial Commission and Legal Representation**

Number 6 of Class 2

**Category:** *Governance*

**Tuesday 7th March 2023**

1. The Commission of Assembly note the difficulties encountered by the Judicial Commission in processing a Libel submitted by the Presbytery of the Western Isles in the case of Rev. David F. Macdonald due to a conflict of interest declared by several of its members in addition to a conflict of interest on the part of members of the said Presbytery. They appoint Rev. David Court (Christ Church, Edinburgh), Rev. Gordon Martin (Urray and Strathconon), Rev. Murdo Macleod (Nairn) and Mr Sandy Finlay (Free North, Inverness) as members of the Judicial Commission in relation to the Libel against Rev. David F. Macdonald only.

2. The Commission of Assembly note the advice received from the Church's Law Agent in the case of the Western Isles Presbytery and Rev. David F. Macdonald that there is a potential risk of civil action to the Church arising from the fact that current Church practice does not permit the use of a Lawyer to represent a Respondent at the Bar. They suspend, in this case only, the operation of the 2022 General Assembly Standing Orders Section F, Paragraph 8.1, which states 'that Counsel shall not be heard at the Bar in any Causes which may come before the House.' They also suspend the application of Paragraph 2.33 of The Practice of the Free Church of Scotland, Chapter 5, Discipline, Part 3, which states that 'no lawyer is allowed access in that capacity to a meeting of Kirk Session dealing with a case of discipline,' to this case. They grant permission to the Western Isles Presbytery and to Rev. David F. Macdonald to be legally represented when the case is heard before the Judicial Commission, and in any subsequent meetings of the Courts of the Church which may be necessary to bring the case to a conclusion.

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#### **Act 7 – Admission of Rev. Benjamin Castaneda**

Number 7 of Class 2

**Category:** *Mission & Ministry*

**Tuesday 7th March 2023**

1. The General Assembly receive the application for admission to the Free Church ministry from Rev. Benjamin Castaneda.  
2. The General Assembly note the requirement of Act 22, Class 2, 2021 that anyone wishing to be admitted as an ordained minister must complete the Presbyterian Church Module at ETS prior to their admission. They waive the requirement of

the said Act in this case. They instruct that Mr Castaneda completes the Presbyterian Church Module as soon as is practically possible and necessarily within 24 months.

3. The General Assembly admit Rev. Benjamin Castaneda as a Minister of the Free Church of Scotland. They instruct the Presbytery of Edinburgh and Perth to meet with Mr Castaneda as soon as practically possible to ask the prescribed Questions and to sign the Formula on receiving satisfactory responses.

4. The General Assembly note that Rev. Benjamin Castaneda was appointed Course Organiser and Lecturer in New Testament at ETS by the Seminary Board in October 2021 and that his appointment was subsequently approved by the 2022 General Assembly. They instruct the Presbytery of Edinburgh and Perth to formally induct Mr Castaneda as Course Organiser and Lecturer in New Testament at ETS on signing the Formula, granting him a seat on the Presbytery.

5. The General Assembly instruct the Presbytery to inform the Principal Clerk by extract of the proceedings that Mr Castaneda has signed the Formula and that he has been duly inducted.

6. The General Assembly direct that documents supporting the application to be held *in retentis*.

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### **Act 8 – Union of Glasgow City and Glasgow Partick**

Number 8 of Class 2

**Category:** *Mission & Ministry*

*Tuesday 7th March 2023*

The Commission of Assembly receive the Petition of the Presbytery of Glasgow and Argyll regarding Glasgow City and Glasgow Partick and grant its crave. They unite the congregation of Glasgow City with the congregation of Partick with one Kirk Session and one Deacons' Court. They declare that the united charge be called Glasgow City and Partick Free Church. They further declare that Rev. Dr Colin Dow be the Minister of the united charge with his appointment continuous with his original induction and according to the provisions of Act 1, Class 1, 2018 anent the Sustentation Fund.

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### **Act 9 – Amending Act 3, Class 2, Commission of Assembly (4<sup>th</sup> October 2022) - Linkage of Burghead and Elgin and Forres**

Number 9 of Class 2

**Category:** *Mission & Ministry*

*Tuesday 7th March 2023*

The Commission of Assembly receive the Petition of the Presbytery of Inverness, Lochaber and Ross regarding Burghead and Elgin and Forres and grant its crave. They amend terms of the terms of Act 3, Class 2, October 2022, linking the congregations, to the extent that the linked congregations of Burghead, Elgin and Forres have one Kirk Session and two Finance Committees. They instruct that the charitable status of both congregations is retained.