

# CHURCH COURTS ACT (ACT VI 2023) (AS AMENDED BY ACTS VII AND XII 2025)

*Edinburgh, 23 May 2023, Session 11*

WHEREAS in terms of the Fourth Article Declaratory, the Church of Scotland as part of the Universal Church wherein the Lord Jesus Christ has appointed a government in the hands of Church office-bearers, receives from him, its Divine King and Head, and from Him alone the right and power subject to no civil authority to legislate, and to adjudicate finally, in all matters of doctrine, worship, government, and discipline in the Church, including the right to determine all questions concerning membership and office in the Church, the constitution and membership of its Courts, and the mode of election of its office-bearers, and to define the boundaries of the spheres of labour of its Ministers and other office-bearers;

Accordingly, in respect of the courts of the Church, the General Assembly hereby enact and ordain as follows:

## PART 1 - CHURCH COURTS

### 1. BROAD PRINCIPLE

1.1 The government of the Church of Scotland is Presbyterian and is exercised through courts, being Kirk Sessions, Presbyteries and General Assemblies, as set out in the Articles Declaratory.

## PART 2 – KIRK SESSION

### 2. BROAD PRINCIPLE

2.1 The Kirk Session is the court which is responsible for the life and witness of the Church of Scotland in a parish.

2.2 The Kirk Session shall exercise oversight and leadership over the congregation's participation in Mission within the parish and the congregation's sharing in the wider work of the Church, through Worship, Service, Fellowship, Discipleship and Evangelism<sup>1</sup>. The Kirk Session shall ensure these facets of church life are held in balance and expressed in ways appropriate to the context.

### 3. FUNCTIONS AND RESPONSIBILITIES

3.1 In achieving the broad principle above, the Kirk Session shall fulfill the following functions and responsibilities:-

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### WITNESS

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<sup>1</sup> *These are expanded on in Guidance.*

- (1) **Mission:** Develop the congregation's engagement in Mission in terms of section 2.2.
- (2) **Public Worship and Communion:** Determine the hours of public worship and the times of dispensing the Lord's Supper, the latter in terms of the Sacraments Act (Act V 2000), always subject to determination by Presbytery as part of parish adjustment.
- (3) **Pastoral and spiritual care:** Exercise oversight over the pastoral and spiritual care of the whole congregation, and offer pastoral care as appropriate across the parish, throughout the whole of life.

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#### CONGREGATIONAL LIFE

- (4) **Office bearers:** Appoint a Clerk and a Safeguarding Coordinator, and where there is no Congregational Board or Deacons' Court, a Treasurer. The Kirk Session may make other appointments as required. The oath *de fideli* shall be administered to a Clerk or Interim Clerk.<sup>2</sup> The Clerk need not be a member of the Kirk Session but while in post shall be a charity trustee.
- (5) **Congregational membership and adherence:** Determine issues of membership and adherence in the congregation and be responsible for keeping a Roll of the congregation which is up to date and retained in accordance with data protection law.
- (6) **Session membership:** Manage membership, including by adding to its number and receiving resignations of its members.
- (7) **Discipline:** Maintain good order in the life of the congregation and respond to the misconduct of members and adherents.
- (8) **Baptisms:** Determine in collaboration with the Minister those to whom the sacrament of baptism may be administered and be responsible for the keeping of a Roll of Baptisms, subject to data protection law and in terms of the Sacraments Act (Act V 2000)
- (9) **Finance and Property:** Be responsible for the financial arrangements and the care of the property belonging to the congregation, including maintenance of a Property Register, unless there is a Congregational Board or Deacons' Court<sup>3</sup>.
- (10) **Church buildings and land:** Exercise rights and responsibilities over Church buildings as set out in section 12 of the Parish Ministry Act (Act II 2018) and, where buildings or land are vested in the Church of Scotland General Trustees, in accordance with any directions given by them in matters of health and safety.
- (11) **Stewardship:** Bring the resourcing needs and commitments of the congregation and wider Church to the attention of members and adherents on a regular basis and encourage

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<sup>2</sup> The text concerns the faithful administration of the office: "I swear that I will be faithful to the duties of.....", naming the office concerned.

<sup>3</sup> Reference should be made in particular to the Church Finance Act (Act V 1989), the Congregational Finance Regulations (Regulations II 2016), the Care of Ecclesiastical Properties Act (Act VII 2007) and the Work at Ecclesiastical Buildings Regulations (Regulations I 1998).

generosity in giving of time, talents and money.

- (12) **Oversight of congregational organisations:** Oversee all Sunday Schools and ministries for children, young people and families, congregational organisations and mission work of the congregation.
- (13) **Appointments:** Appoint appropriate persons to work in the congregation to support the Mission of the congregation; fulfil all responsibilities consequentially arising in terms of the civil law on employment; and unless the congregation has a Congregational Board or Deacons' Court, be responsible for the payment of salaries.
- (14) **Communications:** Be responsible for all publications and communications, including social media, issued in the name of the congregation.

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#### CHURCH LAW

- (15) **Compliance:** Carry out the functions and comply with the responsibilities specified in Acts and Regulations of the General Assembly, and comply with instructions of Presbytery and the General Assembly.<sup>4</sup>
- (16) **Rolls and records:** Submit annually to Presbytery for examination the rolls, registers, and records of the congregation and submit for attestation by Presbytery the trustees' report and annual congregational accounts<sup>5</sup>.
- (17) **Conflicts of interest:** Adopt and operate a suitable policy which demonstrates conflicts of interest are recognised and managed effectively.

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#### CIVIL LAW

- (18) **Charity law:** ensure that the congregation is registered as a Charity and that it follows civil charity law and good practice, including the timeous submission of accounts for attestation by Presbytery and thereafter to OSCR; also discharge the duties of charity trustees in terms of the civil law on charities, in particular those contained in the Charities and Trustee Investment (Scotland) Act 2005 (as amended).
- (19) **Safeguarding:** fulfil all responsibilities placed upon it in terms of civil law and the Safeguarding Act (Act XVI 2018), ensuring that necessary Safeguarding training is undertaken, that records of such training are maintained, and that the Safeguarding Congregational Register and the Safeguarding Audit Checklist are completed annually.
- (20) **Data protection:** be responsible for fulfilling the provisions of civil law on data protection, in accordance with advice and assistance provided by the national Church offices and Church website.
- (21) **Health and safety law, employment law and other civil law:** comply as required.

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<sup>4</sup> Guidance will highlight particular Acts and Regulations of Assembly of which a Session Clerk should be aware

<sup>5</sup> This includes the Property Register and Manse Condition Schedule.

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## CO-OPERATION WITH PRESBYTERY

- (22) **Presbytery Elder:** appoint one of their number to serve as a member of the relevant Presbytery.
- (23) **Mission Planning:** take due part in the creation and annual updating of the Presbytery Mission Plan as set out in the Presbytery Mission Plan Act (Act VIII 2021).
- (24) **Vacancy Procedure:** fulfil the various responsibilities set out in the Vacancy Procedure Act (Act VIII 2003).
- (25) **Superintendence:** co-operate with Presbytery as it exercises its general powers of superintendence and in particular participate in the processes of the Local Church Review Act (Act I 2011).

3.2 Where a Kirk Session is a Services Kirk Session in terms of the H.M. Forces (Kirk Sessions) Act (Act VIII 1952), the terms of this Act shall be interpreted and applied with all necessary adaptations.

## 4. DELEGATION OF AUTHORITY

4.1 The Kirk Session may delegate its authority to make decisions in certain areas of responsibility to individuals or committees on such terms as the Kirk Session may determine. The Kirk Session may include in the delegation a mechanism by which Kirk Session members beyond the group can, before a final decision is made by the delegated group, request that the matter come back to a full meeting of the Kirk Session.

4.2 In delegating, the Kirk Session shall ensure that:

- a) all the members of the Kirk Session are aware that as charity trustees they retain responsibility for the decisions made by the delegated group and decisions made by a delegated group will be open to Dissent and Complaint or Appeal in terms of the Intimation of Appeals Act (Act V 2004).
- b) it identifies at a full meeting of the Kirk Session the individual or the membership of the group to which the powers are to be delegated including lines of accountability.
- c) it sets out in an agreed minute the extent of the delegated powers including if appropriate reference to the relevant Act(s) and/or Regulations of the General Assembly regarding the decisions the group is charged with making, the budget limits within which they must work, and the point at which the group must refer decision-making back to a full meeting of the Kirk Session.
- d) it minutes its acceptance that decisions made by the group are final and cannot be recalled or rescinded by the Kirk Session save where the mechanism permitted by section 4.1 has been included in the scheme of delegation.
- e) no further delegation is possible by the delegated group without the consent of the Kirk Session.

4.3 Delegation, once made, may thereafter be rescinded or amended by the Kirk Session but not on a retrospective basis and such rescission or amendment shall only become effective once intimated to the members of the delegated group.

## 5. MEETINGS

5.0 Kirk Session meetings shall normally be held in public but may be held in private for the whole or part of a meeting where the Session so determines for items of business which are personal, disciplinary or are of a pastoral or commercially sensitive nature.

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### 5.1 CALLING MEETINGS

5.1.1 Ordinary Meetings shall be called by the Kirk Session at a previous Ordinary Meeting. The Kirk Session may call one or more such meetings at a time. Normally public notice of at least ten days (and including two Sundays) of a meeting shall be given. Elders may also be notified by hard copy letter, by electronic means, by telephone call, or by a combination of these methods.

5.1.2 A Specific Purpose Meeting shall be called either at an Ordinary Meeting or, where the need arises between Ordinary Meetings, it may be called by the Moderator on the advice of the Clerk. The first item of business at a Specific Purpose Meeting called by the Moderator shall be the approval of the Moderator's decision to call the meeting. No other business beyond the specific purpose previously intimated shall be discussed at such a meeting.

5.1.3 The calling of a Specific Purpose Meeting called by the Moderator shall be in writing with a period of notice of at least fourteen days, provided that in exceptional circumstances a shorter period of notice may be given, and in this event the first item of business shall be approval of the shorter period of notice.

5.1.4 The Moderator must call a Session meeting to be held within ten days on the instruction of the relevant Presbytery.

5.1.5 In addition, the Moderator must call a Session meeting to be held within ten days where he or she is requested in writing to do so by either of the following groups: (1) a majority of the ruling Elders, or (2) where the ruling Elders exceed nine in number, at least one-third with a minimum of five.

5.1.6 In each year, in addition to the regular conduct of business, the Session must:

- a) review and approve the Communion Roll and Adherents' Roll,
- b) approve the trustees' report and accounts of the congregation for the preceding financial year,
- c) review and approve the Safeguarding Register, and
- d) appoint the Presbytery Elder,

all in accordance with Church law.

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### 5.2 PROCEDURE AT MEETINGS

5.2.1 Meetings shall be constituted and closed with prayer.

5.2.2 All meetings shall be minuted, with the minute of each meeting being circulated in draft following the meeting and being subject to approval at the start of the following ordinary meeting. The minute shall record the date, time, and (if in person) place of the meeting, the name of the Moderator, attendees (including apologies) and decisions made and actions taken. Minutes shall be retained as set out in the Guidance.

5.2.3 The minute of a meeting (or part of it) held in private shall be held in a Record Apart.

5.2.4 Meetings may take place in person, or online, or by a combination of these methods. Where the meeting is online to any extent, the Moderator shall ensure that those attending can participate, debate and vote and that this can be done in private where required.

5.2.5 A person who is not a member of the Kirk Session, whether or not a member of the congregation, may attend a Session meeting (except to the extent that it is being held in private). Where a meeting is held wholly online and a person not a member of the Kirk Session wishes to observe those parts of the meeting not held in private, a web link shall be provided upon request. A person who is not a member of the Kirk Session shall require permission of the Kirk Session to speak on a particular item (or items) of business, which may be a standing permission<sup>6</sup>. A request to speak shall be made by submitting it in writing to the Session Clerk, normally at least seven days in advance of the date of the meeting. The request shall then be considered at the meeting of the Kirk Session in question.

5.2.6 The Standing Orders of the General Assembly shall apply as matter of default to Kirk Session meetings, but a Kirk Session may adopt Standing Orders of its own provided these are not incompatible with Church law.

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### 5.3 MODERATOR AND INTERIM MODERATOR

#### 5.3.1 MODERATOR

5.3.1.1 The Minister of the charge shall be the Moderator of the Kirk Session, save where other arrangements are specified in a Basis of Team Ministry. Otherwise the Kirk Session may be moderated by an Interim Moderator as set out below or as set out in the Kirk Session Meetings Act (Act VI 2004).

5.3.1.2 The Moderator of the Kirk Session while in the chair has a casting vote but no deliberative vote. He or she may introduce items of business and may speak to them.

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#### 5.3.2 INTERIM MODERATOR

5.3.2.1 The Presbytery may appoint an Interim Moderator of the Kirk Session. This shall normally be done when the charge is vacant, or when the Minister is on sick leave or has been granted leave of absence. It may also be done in anticipation of an impending vacancy, while the Minister is still in office, to deal with adjustment and vacancy business. An Interim Moderator shall normally be appointed where the Minister's absence has extended to, or is anticipated to last, for more than six weeks.

5.3.2.2 Where the relevant Presbytery appoints an Interim Moderator, the Interim Moderator shall be (i) a ministerial member of the relevant Presbytery, or (ii) a ministerial member of another Presbytery who has agreed to serve, or (iii) a member of the Presbytery who has attended training for the task provided by the Office of the General Assembly, or (iv) a voting member of another Presbytery who has agreed to serve and who has received the training referred to in sub-section (iii), provided that such a person shall remain a member of their originating Presbytery.

5.3.2.3 A person appointed as an Interim Moderator in a vacant charge shall not be a member in the vacant charge nor a member of the Vacancy Procedure Committee. The name of an Interim Moderator

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<sup>6</sup> For example, this might be granted to a treasurer who is not an elder.

shall always be forwarded to the Faith Action Programme Leadership Team.

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#### 5.4 QUORUM

5.4.1 The quorum of a Kirk Session shall be three, being the Moderator, Interim Moderator or appointee in terms of the Kirk Session Meetings Act (Act VI 2004), plus two ruling Elders.

5.4.2 If there be not a sufficient number of ruling Elders available to make a quorum, or in cases of difficulty at the discretion of the Presbytery, Assessor Elders may be appointed by the Presbytery. When appointing Assessor Elders, Presbytery shall state whether or not the Assessor Elders have a vote in Session business; those appointed with voting rights shall be charity trustees from the date of their appointment until they are discharged. The appointment of Assessor Elders shall be reviewed annually.

### 6. MEMBERSHIP OF THE KIRK SESSION

6.1 The Kirk Session shall consist of the Minister(s) of the parish, any associate Minister or parish Deacon if qualified as set out below, and the ruling Elders of the congregation. All members of the Session shall have the right to vote.

6.2 An associate Minister or parish Deacon introduced in terms of section 32(4) of the Vacancy Procedure Act (Act VIII 2003), shall be a member of the Kirk Session. Where there is a Team Ministry, all Ministers shall be members of the Kirk Session. Any other Minister or Deacon may be associated in the practical work of the Kirk Session of the congregation on the invitation of the Kirk Session, with the right to attend meetings and to speak, but not to vote, and shall not be a member of the Kirk Session.

6.3 Where there is no Congregational Board or Deacons' Court, the Kirk Session shall also appoint a Treasurer who need not be an Elder nor member of the congregation, but who shall, while in post, assume the duties and obligations of charity trusteeship.

6.4 Members of the Kirk Session along with members of the Congregational Board or Deacons' Court, though not Correspondents, shall be charity trustees of the congregation for the purposes of civil charity law. Other persons may be charity trustees for the purposes of civil charity law according to that congregation's constitution.

6.5 The Kirk Session may appoint Correspondents, who shall have the following rights in respect of meetings: to receive papers, to attend and to speak but not to vote. A Correspondent need not be a member of the congregation. A Correspondent shall not be present when business is taken in private.

6.6 A locum in a vacancy shall not be a member of a Kirk Session but if the Kirk Session so decides may be invited to attend Kirk Session meetings and allowed to speak.

6.7 Elders shall be elected, ordained and admitted to the Kirk Session in terms of the Election and Admission of Elders and Deacons Act (Act X 1932). Such Act includes provision for Elders to be admitted to the Kirk Session on the basis of fixed term membership. The minimum age for an Elder is eighteen years. The Kirk Session shall keep the number of ruling Elders under review, for efficient operation.

6.8 An Elder who ceases to be a member of a Kirk Session does not, if he or she transfers to another congregation, thereby become a member of its Kirk Session but may do so upon invitation.

6.9 A Kirk Session may agree to accept a standing apology from a ruling Elder for all meetings occurring

between specified dates on cause shown. If agreed to, such an Elder remains a charity trustee and shall continue to be supplied with documents for all Session meetings.

6.10 Where (i) a ruling Elder fails to attend Kirk Session meetings for a period of twelve months without submitting apologies for their absence, or (ii) a Session determines that a ruling Elder is not, whether through infirmity, illness or otherwise, participating sufficiently in Kirk Session business, the Session may, having first invited the person to offer reasons for their absence or lack of participation and assurances regarding their future involvement, remove that person from the membership of the Session. The Session Clerk will write to that person to confirm that they have been removed from the membership of the Session. From the date of their removal they will no longer be a charity trustee<sup>7</sup>.

## 7. RELATIONSHIP WITH OTHER CHURCH COURTS

7.1 A Kirk Session, as the inferior court, is answerable to the Presbytery and, as such, must obey the instructions of the Presbytery and the General Assembly. As such, appeals against decisions of Kirk Sessions shall be heard and disposed of by the Presbytery or those to whom the Presbytery delegates such authority.

7.2 Relationships with other Kirk Sessions may be governed by Bases, such as a Basis of linking or parish grouping, approved by Presbytery in terms of the Presbytery Mission Plan Act (Act VIII 2021). Where decisions are required to be made, two or more Kirk Sessions may meet in conference but they require to meet separately (and this may be in the same place at the same time) to make their own decisions<sup>8</sup>.

7.3 Where a Kirk Session becomes aware of difficulties in the congregation or Session which it cannot itself resolve, it shall make the Presbytery aware of the situation or where Presbytery itself becomes aware of such circumstances, the Presbytery shall proceed to take appropriate action.

7.4 Whenever a Kirk Session meeting is called by the authority of the Presbytery in terms of the Local Church Review Act (Act I 2011) or the Presbytery Mission Plan Act (Act VIII 2021) or for any other purpose relating to the superintendence of the congregation by the Presbytery, the representative of Presbytery appointed to moderate the meeting shall determine whether on any occasion the Kirk Session shall meet without the presence of the Minister.

## 8. APPEALS

8.1 Decisions of the Kirk Session are subject to appeal, and any such appeal shall be heard by the relevant Presbytery, or those to whom the Presbytery delegates authority. An appeal against a decision of the Kirk Session can be made only by a person described in the Intimation of Appeals Act (Act V 2004) and an appeal must be intimated in accordance with the provisions of that Act.

## PART 3 - PRESBYTERY

### 9. BROAD PRINCIPLE

<sup>7</sup> *Although such a person would retain the status of Elder.*

<sup>8</sup> *ie there should be separately minuted decisions and two or more Kirk Sessions may not make joint decisions.*

9.1 Presbytery is the court which is responsible for the gathered life of the Church of Scotland. This responsibility is both corporate and individual, and rests on members and office-bearers alike. The collective task is the support and oversight of the local church as well as participating in the life of the Church at General Assembly level.

9.2 Each area of Scotland shall be covered by such a Presbytery and each local expression of church belonging to the Church of Scotland shall be subject to the oversight of the relevant Presbytery.

9.3 In addition, there shall be Presbyteries which oversee Church of Scotland congregations furth of Scotland.

## 10. FUNCTIONS AND RESPONSIBILITIES

10.1 The Presbytery shall exercise oversight and leadership over the local church's participation in Mission and promote sharing in the wider work of the Church. To that end the Presbytery shall fulfil the following functions and take such other initiatives as the Presbytery see fit (subject always to Church law):-

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### SUPPORT AND OVERSIGHT OF THE LOCAL CHURCH

- (1) create, implement and maintain the Presbytery Mission Plan as specified in the Presbytery Mission Plan Act (Act VIII 2021).
- (2) oversee Vacancy Procedure as set out in the Vacancy Procedure Act (Act VIII 2003).
- (3) carry through the process of Local Church Review as set out in the Local Church Review Act (Act I 2011).
- (4) provide pastoral care to parish Ministers and parish Deacons<sup>9</sup>.
- (5) annually examine and attest rolls, records, minutes, registers, expense claims, and accounts.

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### SUPERINTENDENCE

- (6) exercise general powers of superintendence.
- (7) exercise discipline over Ministers, Deacons, Elders and local office bearers in terms of the Discipline Act (Act I 2019) and provide pastoral care to those involved in the discipline process.
- (8) operate the Complaints Procedure as approved by the General Assembly.
- (9) hear and dispose of appeals against the decision of a Kirk Session.

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### RESOURCING CONGREGATIONS

- (10) provide resources or identify access to resources for congregations and other expressions of local church life as set out in Church law or as the Presbytery may determine.
- (11) fulfil its responsibilities in relation to Readers in terms of the Readership Act (Act XVII 1992), to Ordained Local Ministers in terms of the Ordained Local Ministry Act (Act IX 2011) and to Auxiliary Ministers in terms of the Auxiliary Ministers Act (Act XIII 2003).

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<sup>9</sup> *The expectation is that those who have their own Minister receive pastoral care from them.*

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- (12) select, train and maintain lists of worship leaders in terms of the Parish Ministry Act (Act II 2018).

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#### BEYOND THE CHURCH

- (13) order itself in such a way that the local church can gain a collective voice to speak with those representing civil authority, other denominations, other faith groups, the Third Sector, business interests, and cultural life.

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#### GENERAL ASSEMBLY PROCESSES

- (14) participate in any Presbytery Review process<sup>10</sup>.
- (15) cooperate with agencies and officials of the General Assembly as they fulfil their remits.
- (16) nominate and supervise Candidates for the Ministry of Word and Sacrament and the Diaconate.
- (17) provide such information regarding statistics, office bearers, and finance as required by Church law.
- (18) respond timeously to General Assembly remits and ensure compliance with the requirements of the Barrier Act.

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#### GOOD ORDER

- (19) ensure good order in the conduct of its shared life.
- (20) carryout the functions and comply with the responsibilities specified in Acts and Regulations of the General Assembly, and comply with instructions of the General Assembly.
- (21) elect a Moderator from amongst its number. Such an appointment shall be in terms of the Presbytery's Standing Orders but, for the avoidance of doubt, may be for a period of time of at least one year and of the Presbytery's choosing.
- (22) appoint a Clerk and in the absence of the Clerk from any meeting, appoint an Interim Clerk. The Clerk need not be a member of the Court. The oath *de fideli* shall be administered to a Clerk or Interim Clerk.<sup>11</sup>
- (23) ensure that the Roll of Presbytery is kept up to date and retained in accordance with Data Protection law.
- (24) appoint appropriate persons to work in the Presbytery to support the mission of the Presbytery; fulfil all responsibilities consequentially arising in terms of the civil law on employment; and be responsible for the payment of salaries.
- (25) adopt and operate a suitable policy to recognise and manage conflicts of interest effectively and demonstrably.

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#### CIVIL LAW

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<sup>10</sup> A Presbytery Review process is under development.

<sup>11</sup> The text concerns the faithful administration of the office: "I swear that I will be faithful to the duties of.....", naming the office concerned.

- (26) ensure that the Presbytery is registered as a Charity and follows civil charity law and good practice, including the timeous submission of Presbytery accounts to OSCR.
- (27) ensure that the duties of charity trustees in terms of the civil law on charities, in particular those contained in the Charities and Trustee Investment (Scotland) Act 2005 (as amended) are discharged.
- (28) attest all congregational trustees' reports and annual accounts prior to their submission to OSCR.
- (29) cooperate with the Assembly Trustees on matters of charity governance.
- (30) fulfil all responsibilities placed upon the Presbytery in terms of civil law and the Safeguarding Act (Act XVI 2018), including the provision of Safeguarding training and maintenance of records of such training, and the annual completion of the Safeguarding Audit Checklist.
- (31) act as the data controller, in terms of the Data Protection Act 2018, for congregations within its bounds and be responsible for registering as such with the Information Commissioner's Office.
- (32) fulfil the provisions of civil law on data protection, in accordance with advice and assistance provided by the national Church offices and Church website.
- (33) comply as required with health and safety law, employment law and other civil law.

## 11. DELEGATION OF AUTHORITY

11.1 The Presbytery may delegate their authority to make decisions in certain areas of responsibility to individuals or committees on such terms as the Presbytery may determine. The Presbytery may include in the delegation a mechanism by which Presbytery members beyond the group can, before a final decision is made by the delegated group, request that the matter come back to an Ordinary Meeting of the Presbytery.

11.2 In delegating, the Presbytery shall ensure that:

- a) all the members of the Presbytery are aware that as charity trustees they retain responsibility for the decisions made by the delegated group and decisions made by a delegated group will be open to Dissent and Complaint or Appeal in terms of the Appeals Act (Act I 2014).
- b) they identify at an Ordinary Meeting the individual or the membership of the group to which the powers are to be delegated including lines of accountability.
- c) they set out in an agreed minute the extent of the delegated powers including if appropriate reference to the relevant Act(s) and/or Regulations of the General Assembly regarding the decisions the group is charged with making, the budget limits within which they must work, and the point at which the group must refer decision-making back to an Ordinary Meeting of the Presbytery.
- d) they minute their acceptance that decisions made by the group are final and cannot be recalled or rescinded by the Presbytery save where the mechanism permitted by section 11.1 has been included in the scheme of delegation.
- e) No further delegation is possible by the delegated group without the consent of the Presbytery.

11.3 Delegation, once made, may thereafter be rescinded or amended by the Presbytery but not on a retrospective basis and such rescission or amendment shall only become effective once intimated to the members of the delegated group.

## 12. MEETINGS

12.0.1 Meetings of Presbytery shall be Ordinary Meetings (where any appropriate business may be discussed) or Specific Purpose Meetings (where only previously intimated business may be discussed).

12.0.2 All meetings of Presbytery shall be open to the public except when the Presbytery decides to meet in private for the whole or part of a meeting for items of business which are personal or are of a pastoral, disciplinary or commercially sensitive nature.

12.0.3 Papers for meetings shall normally be circulated in advance.

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### 12.1 CALLING MEETINGS

12.1.1 Ordinary Meetings shall be called by the Presbytery at a previous Ordinary Meeting. The Presbytery may call one or more such meetings at a time. Presbyters may be notified by hard copy letter, by electronic means, by telephone call or by a combination of these methods.

12.1.2 A Specific Purpose Meeting shall be called either at an Ordinary Meeting or, where the need arises between Ordinary Meetings, it may be called by the Moderator on the advice of the Clerk. The first item of business at a Specific Purpose Meeting called by the Moderator shall be the approval of the Moderator's decision to call the meeting. No other business beyond the specific purpose previously intimated shall be discussed at such a meeting.

12.1.3 The calling of a Specific Purpose Meeting called by the Moderator shall be in writing with a period of notice of at least fourteen days, provided that in exceptional circumstances a shorter period of notice may be given, and in this event the first item of business shall be approval of the shorter period of notice.

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### 12.2 PROCEDURE AT MEETINGS

12.2.1 Meetings shall be constituted and closed with prayer.

12.2.2 All meetings shall be minuted, with the minute of each meeting being circulated in draft following the meeting and being subject to approval at the start of the following meeting. The minute shall record the date, time, and (if in person) place of the meeting, the name of the Moderator, attendees and decisions made and actions taken. Minutes shall be retained as set out in the Guidance.

12.2.3 The minute of a meeting (or part of it) held in private shall be held in a Record Apart.

12.2.4 Meetings may take place in person, or online, or by a combination of these methods. Where the meeting is online to any extent, the Moderator shall ensure that those attending can participate, debate and vote and that this can be done in private where required.

12.2.5 The agenda for an Ordinary Meeting shall include the updating of the Roll of Presbytery and the calling of the next Ordinary Meeting.

12.2.6 A person who is not a member of the Presbytery, whether or not a member of a congregation within the relevant Presbytery, may attend a Presbytery meeting (except to the extent that it is being held in private) but shall require permission of the Presbytery to speak on a particular item (or items) of business. A request to speak shall be made by submitting it in writing to the Presbytery Clerk, normally

at least seven days in advance of the date of the meeting. The request shall then be considered at the meeting of the Presbytery in question. Nothing in this section precludes other rights to address Presbytery<sup>12</sup>.

12.2.7 Meetings shall be conducted in line with the Presbytery's Standing Orders and where there is no such provision the Standing Orders of the General Assembly shall apply as appropriate. Where the Presbytery have Standing Orders they shall be published on the Presbytery's website.

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### 12.3 MODERATOR

12.3.1 The Moderator of the Presbytery shall be chosen from among the members of the court by free election, on the recommendation of the Business or other Committee of Presbytery, and shall hold office for a year at least and be eligible for re-election.

12.3.2 The Moderator while in the chair has a casting vote but no deliberative vote.

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### 12.4 QUORUM

12.4.1 The quorum for a Presbytery meeting shall be three members of the Court, at least one of whom shall be a Minister and one an Elder.

## 13. MEMBERSHIP OF PRESBYTERY

13.0.1 Ministers, Deacons and Elders, and no others, shall be entitled to be members of Presbytery.

13.0.2 Members of the Presbytery, though not Correspondents, shall be charity trustees of the Presbytery for the purposes of civil charity law. Other persons who participate in the general control and management of the administration of the Presbytery may be charity trustees for the purposes of civil charity law.

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### 13.1 MINISTERS

13.1.1 A Minister shall be a member of the Presbytery where there is situated: -

- a) the charge to which a Minister has been inducted or within which the Minister serves as associate, assistant, or auxiliary, failing which
- b) the office, institution or other place from which a Minister works, failing which
- c) wholly or mainly the area of a Minister's responsibility, provided that, if the area extends over the boundaries of more than one Presbytery, the Presbytery containing the larger or largest part of that area shall be the relevant Presbytery.

13.1.2 A Minister in any of the following categories shall be a member of the relevant Presbytery:

- a) a Minister inducted to a charge,
- b) an associate Minister,

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<sup>12</sup> See Guidance for further details.

- c) a pioneer Minister,
- d) an interim or transition Minister,
- e) an assistant Minister,
- f) an Ordained Local Minister or an auxiliary Minister in a designated appointment.

13.1.3 A Minister in any of the following categories shall be a member of the relevant Presbytery or, if there is no such Presbytery, of the Presbytery to which he or she belonged at the time of appointment or by which he or she was ordained for the appointment:

- a) a Minister appointed by a Committee of the Church to an overseas post,
- b) a Minister appointed to a Commission as a chaplain to H.M. Forces.

13.1.4 A Minister who is one of the following:

- a) a healthcare chaplain,
- b) a prison chaplain,
- c) a workplace chaplain,
- d) a university chaplain, or
- e) a professor or lecturer in an Accredited institution as defined in Act X 2004,

shall be a member of the Presbytery where he or she is employed, or of the Presbytery within which is situated the congregation of which he or she is a member, or of the Presbytery within the boundaries of which he or she resides, as he or she may choose.

13.1.5 A Minister appointed to a post, other than those in sections 13.1.2, 13.1.3 and 13.1.4 above and other than that of *locum* for a parish Minister, within the jurisdiction of the Church and under the direction and control of one of its courts or Committees, shall be a member of the relevant Presbytery or of the Presbytery within which is situated the congregation of which he or she is a member or of the Presbytery within the boundaries of which he or she resides, as he or she may choose.

13.1.6 Any individual who has the status of Minister of the Church of Scotland, and who does not fall into any of the categories listed in sections 13.1.2 to 13.1.5 above, shall be entitled to apply for membership of Presbytery on the basis of being registered in the Register of Ministry (as defined in the Registration of Ministries Act (Act II 2017)) in category O, E or R. Such Minister should be registered with the Presbytery within the boundaries of which is situated the congregation of which the Minister is a member, or the Presbytery within the boundaries of which he or she lives, or (only in the case of any appointment for which the status of ordained Minister is a requirement) the Presbytery within the boundaries of which the appointment is based, as he or she may choose.

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## 13.2 DEACONS

13.2.1 A Deacon shall be a member of Presbytery if he or she occupies a parish appointment, or any other post that would entitle a Minister to membership of Presbytery in terms of sections 13.1.2 to 13.1.4 of this Act, and the provisions of those sections shall determine which is the relevant Presbytery. A Deacon who does not occupy such a parish appointment, or other qualifying post, but who is registered on the Register of Ministry in Category E or R, shall be entitled to apply for membership of Presbytery on the same basis as a Minister holding Category E or R registration, being in terms of section 13.1.4 of this Act and the Presbytery shall have power to decide whether or not to register such individual.

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### 13.3 ELDERS

13.3.1 Each Kirk Session within the boundaries of a Presbytery shall, not later than 30<sup>th</sup> June in each year, meet, and, with the exception undernoted, elect one of its own members (or, with permission of the Presbytery, a member of another Kirk Session within the relevant Presbytery) to represent it in the Presbytery during the ensuing year. In a Team Ministry Charge, the Kirk Session shall elect a number of representative elders equal to the number of Team Ministers.

13.3.2 Commissions in favour of representative Elders shall run from 1st July to 30th June and may be presented to any meeting of Presbytery held after the close of the General Assembly, providing a quorum is present apart from the Elder whose commission is presented. On the commission being declared in order the Elder concerned shall be entitled to take his or her seat.

13.3.3 In the event that a representative Elder becomes unable to serve during the year, the Kirk Session shall elect a replacement Elder and shall notify the Presbytery. The replacement Elder's commission shall run until the following 30th June.

13.3.4 A Presbytery shall elect one Elder (a "balancing Elder") in respect of each Minister who serves in an extra-parochial appointment or who is a member of Presbytery by virtue of section 13.1.5, and may further elect a number of additional Elders not in excess of one-third of the number of congregations within its boundaries. Such Elders shall be:

- a) a member of a Kirk Session within the boundaries of the Presbytery and before taking their seats they shall produce certificates of bona fide eldership from the Kirk Sessions to which they belong, or
- b) an ordained elder who is not currently a member of a Kirk Session but who is a member of a congregation within the boundaries of the Presbytery and can exhibit certification that he/she is in good standing and has not been deprived of the status of elder in a disciplinary process.

The Presbytery shall determine the process for identifying and selecting such Elders.

### 14. CORRESPONDENTS

14.1 A Presbytery may elect Correspondents, who shall have the following rights in respect of meetings: to receive papers, to attend and to speak but not to vote. A Correspondent need not be a Minister, Elder or Deacon of the Church of Scotland. A Correspondent shall not be present when business is taken in private.

### 15. RELATIONSHIP WITH OTHER CHURCH COURTS

15.1 The Presbytery, as the superior court, has oversight of the Kirk Session and has the power to instruct Kirk Sessions and Financial Boards to act or to refrain from acting always in accordance with the Acts and Regulations of the General Assembly and the common law of the Church.

15.2 The Presbytery shall hear and dispose of appeals against decisions taken by Kirk Sessions.

15.3 The Presbytery, as the inferior court, is answerable to the General Assembly and, as such, must obey the instructions of the General Assembly. Appeals against decisions of Presbytery shall be heard

and disposed of by the General Assembly or those to whom the General Assembly delegates such authority.

15.4 The Presbytery shall send Commissioners to the General Assembly. These shall be elected by the Presbytery in accordance with the Standing Orders and Acts of the General Assembly.

15.5 The Presbytery shall cooperate with the General Assembly as they exercise general powers of superintendence and conduct the process of Presbytery Review.

## 16. APPEALS AND REVIEWS

16.1 Decisions of the Presbytery are subject to appeal or review, and such an appeal or review shall be heard by the appropriate appellate body of the General Assembly. Appeals shall be in terms of the Appeals Act (Act I 2014). Presbytery Mission Plan decisions shall be subject to review in terms of the Presbytery Mission Plan Act (Act VIII 2021).

# PART 4 – GENERAL ASSEMBLY

## 17. BROAD PRINCIPLE

17.1 The General Assembly is the supreme court of the Church in matters of Church law, doctrine and practice. It sets a strategy for national agencies of the Church. Its decisions (or those of its delegated bodies) in appeals are final. Its decisions in matters spiritual are not subject to review by any civil court.

## 18. FUNCTIONS AND RESPONSIBILITIES

18.1 The General Assembly has legislative, judicial and administrative functions and responsibilities. Amongst other things, the General Assembly shall:

- (1) Meet and debate and decide upon a range of issues brought to it by commissioners, Standing Committees, Presbyteries and other component elements of the Church.
- (2) Appoint and direct its Standing Committees and hold them to account.
- (3) Pass, amend and repeal Acts and Regulations and agree sections of deliverance.
- (4) Exercise oversight of Presbyteries.
- (5) Be the final court of appeal in certain matters, save where that function has been delegated as set out in more detail in section 20.1 below.
- (6) Welcome and converse with delegates from other denominations in the UK and from churches in other countries.

18.2 Through exercising these functions and responsibilities, the General Assembly shall aim to:

- (1) Provide general order to the life of the whole Church of Scotland.
- (2) Create a sense of belonging and occasion for commissioners from across the Church and in doing so provide support, inspiration and information to members.
- (3) Celebrate being a national Church and a part of the Universal Church.
- (4) Provide a platform from which to increase the public profile of the work of the Church.

## 19. MEETINGS OF THE GENERAL ASSEMBLY

19.0.1 Meetings of the General Assembly may be held in-person, online or in hybrid form, ie with some members present in-person and others simultaneously present online. Each of in-person, online or in hybrid form is referred to as a “format” in this section 19.0.

19.0.2 The Assembly Business Committee shall in its Report propose the date for, meeting place and format of the next General Assembly. The General Assembly shall in its closing session pass an Act appointing the next General Assembly, in terms of the decision made under the Report of the Assembly Business Committee.

19.0.3 Where it subsequently becomes apparent that the date, meeting place and/or format specified by one Assembly for the next Assembly should be reconsidered, the Legal Questions Committee shall call a Commission of Assembly in terms of the Commission of Assembly Act (Act VI 1997) and the Assembly Business Committee shall bring forward alternative proposals regarding date, meeting place and/or format for consideration by the Commission.

19.0.4 The Assembly Business Committee shall be responsible for making the practical arrangements for the holding of a General Assembly, in line with the decisions of the previous Assembly or a subsequent Commission of Assembly.

19.0.5 Where a meeting of the General Assembly is online to any extent, the Moderator shall ensure that those attending can participate, debate and vote as set out in the Standing Orders.

19.0.6 At its closing session, that General Assembly shall be dissolved.

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## 19.1 PROCEDURE AT MEETINGS

19.1.1 The Standing Orders shall make provision for procedure at sessions of the General Assembly.

19.1.2 An Order of Proceedings, containing amongst other things a proposed Order of Business, the Roll of Commissioners and the text of the Standing Orders, shall be sent to Commissioners in advance of the General Assembly, in terms of the Standing Orders.

19.1.3 The Standing Orders shall be published on the Church of Scotland website.

19.1.4 Only the General Assembly may amend the Standing Orders.

19.1.5 The Standing Orders shall apply to Presbyteries and Kirk Sessions, in a form incorporating changes necessary to their circumstances, where such courts have not agreed standing orders of their own. Alternatively, Presbyteries and Kirk Sessions may agree and put in place their own standing orders provided these are not incompatible with Church law.

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## 19.2 MODERATOR

19.2.1 The Moderator shall be appointed in terms of the Nomination of the Moderator of the General Assembly Regulations (Regs I 2013).

19.2.2 The Moderator of the General Assembly shall hold office from the time of his or her election by the General Assembly until he or she demits office upon the election of his or her successor. In the event of the death or supervening incapacity of the Moderator during his or her year of office, one or

more former Moderators shall be invited by the Assembly Business Committee to fulfil the duties of the office until the opening day of the next General Assembly.

19.2.3 The Moderator may appoint Chaplains to provide advice and support throughout his or her term of office.

19.2.4 The Moderator shall be responsible for moderating sessions of the General Assembly and for all acts of worship at the Assembly. The Moderator shall fulfil other duties as set out in the Office of the Moderator of the General Assembly Regulations (Regs II 2013).

19.2.5 The Moderator while in the chair has a casting vote but no deliberative vote.

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### 19.3 QUORUM

19.3.1 The quorum of the General Assembly shall be thirty-one, of whom not fewer than sixteen shall be Ministers. Further provision as to quorum shall be set out in the Standing Orders.

## 20. CONTINUING AUTHORITY OF THE GENERAL ASSEMBLY, DELEGATION OF AUTHORITY AND METHOD OF ACCOUNTABILITY

20.1 Notwithstanding the dissolution of a particular gathering of the General Assembly at its closing session, the General Assembly's authority continues, in terms of the Acts, Regulations, decisions and instructions made, and the powers delegated which may include the following:

- a) To certain judicial bodies established by the General Assembly to act as the final arbiter in certain types of appeal<sup>13</sup> The decisions of these judicial bodies shall be reported to the next General Assembly by the provision of minutes to the General Assembly.
- b) To certain Standing Committees to continue work and make decisions in its name. Activities undertaken and decisions so made shall be reported back to the General Assembly.
- c) To appoint and instruct others such as Special Commissions or Special Committees to carry out work on its behalf. Such delegates shall report back to the General Assembly on their work.
- d) To the Legal Questions Committee, through its Secretary, the Principal Clerk, to ensure compliance with Church law in the periods between meetings of the General Assembly.
- e) Between General Assemblies, to the Commission of Assembly in terms of the Commission of Assembly Act (Act VI 1997). The decisions of the Commission shall be reported to the next General Assembly.

20.2 The Standing Committees of the General Assembly<sup>14</sup> shall be determined from time to time by the General Assembly and listed in the Standing Orders. The delegated authority of Standing Committees may only be amended with the approval of the General Assembly or of a Commission of Assembly.

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<sup>13</sup>Currently these are (i) the Appeals Committee of the Commission of Assembly and the Judicial Commission in terms of the Appeals Act (Act I 2014), (ii) the Ministries Appeal Panel in terms of the Ministries Appeal Panel Act (Act VII 2007) and (iii) reviews held under the Presbytery Mission Plan Act (Act VIII 2021).

<sup>14</sup>These include in practice bodies of different names and functions, such as Forums, Councils, Committees, Panels, Commissions and Trusts.

## 21. MEMBERSHIP OF THE GENERAL ASSEMBLY

21.0.1 The General Assembly shall be composed of Ministers, Deacons and Elders commissioned by Presbyteries to that role, together with other members by virtue of office (*ex officiis*). The Standing Orders shall make provision for other attendees at the Assembly, such as delegates, visitors, corresponding members (Correspondents) and youth representatives.

21.0.2 The Commissioners from Presbyteries shall be appointed as follows:

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### 21.1 MINISTERS

21.1.1 The number of Ministers to be appointed as commissioners by each Presbytery shall be one in every five or part of five of the sum of (a) the total number of charges, whether vacant or not, in the Presbytery and (b) the total number of other Ministers who are members of Presbytery by virtue of being in appointments qualifying them for such membership in terms of this Act, provided that, for the avoidance of doubt, Ministers who are members of Presbytery by virtue of being in category R shall not be included in the above total for the purposes of calculating the number of commissioners, but shall be eligible to be appointed as commissioners. Only Ministers who are members of the appointing Presbytery shall be eligible to hold commissions as Ministers.

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### 21.2 ELDERS

21.2.1 The number of Elders to be appointed as commissioners by each Presbytery shall be equal to the number of Ministers appointed in terms of section 21.1.1 above. Only Elders who are members of Kirk Sessions or New Charge Core Groups within the boundaries of the appointing Presbytery, or who are elected members of Presbytery, shall be eligible to hold commissions as Elders.

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### 21.3 DEACONS

21.3.1 The number of Deacons who may be appointed as commissioners by each Presbytery shall be one in every five, or part of five, of those who are members of Presbytery by virtue of being in appointments qualifying them for such membership in terms of this Act, provided that, for the avoidance of doubt, Deacons who are members of Presbytery by virtue of being in category R shall not be included in the above total for the purposes of calculating the number of commissioners, but shall be eligible to be appointed as commissioners. Only Deacons who are members of the appointing Presbytery shall be eligible to hold commissions as Deacons.

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### 21.4 FAILURE TO APPOINT

21.4.1 Each Presbytery shall normally be expected to appoint its full number of commissioners each year; but in the event of failure to do so the Presbytery concerned shall submit to the Clerks of Assembly upon request a statement of the reason for such failure, and the Committee on Commissions may, if not satisfied with the reason given, report accordingly to the General Assembly.

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### 21.5 OFFICE-HOLDER MEMBERS

21.5.1 The General Assembly shall appoint a Principal Clerk, a Depute Clerk (together the Clerks of

Assembly), a Procurator and a Law Agent, who upon appointment shall each take the oath *de fidei*<sup>15</sup>. In the event of a vacancy in office during a General Assembly, an interim appointment may be made by the General Assembly.

21.5.2 The Clerks of Assembly, Procurator, and Law Agent, together with the Convener and Vice-Convener of the Procedure Committee upon their election, shall be members of the General Assembly by virtue of office (*ex officiis*).

21.5.3 The Moderator of the General Assembly shall, upon election, be by virtue of office a member of the General Assembly, and shall also, by virtue of having held that office, be a member of the General Assembly during which his or her demission from office takes place.

21.5.4 The five most recent past Moderators who are (i) eligible to receive a Commission, and (ii) not members of the Assembly by virtue of section 21.5.3 or otherwise members by virtue of office (*ex officiis*), shall be members of the General Assembly by virtue of office. They shall be appointed in addition to their Presbytery's number of Commissions in terms of section 21.1 but no equalizing Minister or Elder shall be appointed. Their Presbytery shall remain entitled to give Commissions from amongst their allocation in terms of section 21.1, 21.2 or 21.3 above to any other former Moderators eligible to be commissioned.

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## 21.6 VACANCIES BETWEEN GENERAL ASSEMBLIES

21.6.1 In the event of the occurrence of a vacancy in the office of Principal Clerk, Depute Clerk, Law Agent or Procurator between General Assemblies, an interim appointment shall be made until the General Assembly next meets.

21.6.2 In the event of the occurrence of a vacancy in the office of Procurator of the Church between General Assemblies and until an interim appointment may be made, the following provisions shall take effect:

- a) All communications which are appropriate to the duties of the Procurator shall be addressed to the Clerks of the General Assembly.
- b) Where by an Act of Assembly, or by custom, any duty falls to be discharged by the Procurator, the Law Agent shall have power to discharge such duty.

## 22. RELATIONSHIP WITH OTHER CHURCH COURTS

22.1 The General Assembly:

- a) shall be populated mainly by commissioners sent by Presbyteries in terms of the provisions set out above;
- b) has the power to instruct Presbyteries and Kirk Sessions through its legislation and deliverances; and
- c) shall be the final court of appeal from decisions of Presbyteries (save as provided above).

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<sup>15</sup> *The text concerns the faithful administration of the office: "I swear that I will be faithful to the duties of.....", naming the office concerned.*

22.2 The General Assembly shall exercise powers of oversight of Presbyteries and these may be exercised generally, or as specified in legislation.

22.3 Reciprocally, the General Assembly shall hear from Presbyteries on matters of concern to them. A Prestery which wishes to raise a matter of concern with the General Assembly may do so in the form of the style Overture to be found in Guidance. An Overture from a Prestery must be submitted to the Clerks of Assembly in accordance with the procedure and timing set out in the Standing Orders.

22.4 At the General Assembly, an Overture may be presented by a member of the Overting Prestery, whether or not he or she is a Commissioner. If an Overture is presented by a member of the Prestery who is not a Commissioner, he or she shall have the right to speak to and to answer questions upon the Overture, in addition to a Commissioner from that Prestery, but he or she shall not have the right to speak on any other matter or to vote.

## PART 5 – DEFINITIONS AND INTERPRETATION

### 23. DEFINITIONS

23.1 For the purposes of this Act:

- (1) the “boundaries” of a Prestery shall mean the territorial extent of a Prestery in Scotland, in terms of its constituent parishes.
- (2) “Church law” shall mean Acts and Regulations of the General Assembly and instructions of the General Assembly.
- (3) “Deacon” shall mean an individual who has been ordained to ministry as defined in the Deacons Act (Act VIII 2010).
- (4) “Elder” shall mean a person who has been ordained to the office of elder, who is in good standing and who is currently a member of a Kirk Session or a Prestery in terms of section 13.3.4(b).<sup>16</sup>
- (5) “Financial Board” shall mean the body responsible for managing the finances of a congregation, and may include a Congregational Board, Deacons’ Court, Committee of Management and/or Kirk Session.
- (6) “format” when referring to a meeting, shall mean in-person, online or in hybrid form, hybrid meaning some people present in-person and some simultaneously online.
- (7) “Minister” shall mean a Minister of Word and Sacrament as defined in section 1(2) of the Parish Ministry Act.
- (8) “Mission” shall mean the mission of Jesus Christ as expressed in the Five Marks of Mission, namely:
  - a) To proclaim the Good News of the Kingdom,

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<sup>16</sup> Such a person may in daily practice be described as a ruling elder.

- b) To teach, baptise and nurture new believers,
- c) To respond to human need by loving service,
- d) To seek to transform unjust structures of society, to challenge violence of every kind and pursue peace and reconciliation, and
- e) To strive to safeguard the integrity of creation and sustain and renew the life of the earth.

(9) “New Charge Core Group” has the meaning given to it in New Charge Development Act (Act XIII 2000).

(10) “parish” shall mean a geographical area defined by boundaries set by the Presbytery.

(11) “the relevant Presbytery” shall mean the Presbytery whose authority extends across all parishes sitting within the boundaries of that Presbytery.

(12) “Standing Committee(s)” shall mean those set out in the Standing Orders of the General Assembly.

(13) “Standing Orders” shall mean the framework of decision-making adopted by a court.

(14) “writing” shall mean in hard copy or electronic form.

#### 24. INTERPRETATION

24.1 A Minister shall be eligible for membership of the courts of the Church only as a Minister.

24.2 A Deacon shall be eligible for membership of the courts of the Church only as a Deacon.

24.3 Being present at a meeting means being physically present, being on a telephone line or having an online connection, whether audio only or audio and video.

24.4 In line with the Appeals Act (Act I 2014), the term “appeals” includes Dissent and Complaint.

24.5 A “court” refers to a gathering, being a Kirk Session, Presbytery or General Assembly, where there is authority to make collective decisions.

24.6 “Moderator” includes an Interim Moderator.

24.7 For the purposes of this Act, the term, “civil law” includes state law derived from sources such as the UK Parliament, Scottish Parliament and common law, and includes criminal law.

#### PART 6 - GENERAL

##### 25. PROVISIONS APPLICABLE TO ALL COURTS

25.1 Minutes of courts shall be signed by the Moderator who occupies the Chair at the time when the Minutes are submitted for approval. They shall also be authenticated by the signature of the Clerk of the court.

25.2 In the case of Committees, the Minutes shall be signed by the Convener and Clerk of the meeting at which they are approved.

25.3 Petitions shall in all cases be presented to the court of first instance—that is to say, to the lowest court which has power to grant the prayer of the Petition.

## 26. MISCELLANEOUS PROVISIONS

26.1 Kirk Sessions, Presbyteries and Standing Committees shall put in place a conflict of interest policy, a bribery and procurement policy and a whistleblowing policy, all in terms of those recommended by the Law Department.

26.2 This Act does not apply to New Charges which shall continue to be subject to the provisions of the New Charge Development Act (Act XIII 2000).

26.3 The provisions of section 5.2.4 as to meetings shall apply, subject to necessary changes, to Financial Boards as they do to Kirk Sessions.

26.4 Lower courts shall not meet at the same time that meetings of higher courts are taking place. A Kirk Session may meet while the General Assembly is in session, provided that none of its members are commissioners. Committees of Kirk Sessions and of Presbyteries may meet while a superior court is in session provided that none of those entitled to attend is a member of, or commissioned to, the superior court.

26.5 This Act shall apply to the Presbytery of International Charges subject to the terms of the International Presbytery Act (Act II 2016) and with such changes to practice as are required by the particular circumstance.

26.6 The Legal Questions Committee shall issue Guidance on the implementation and operation of this Act, which shall be reviewed by it, from time to time.

## 27. COMMENCEMENT DATE, REPEAL AND TRANSITIONAL PROVISIONS

27.1 This Act shall come into force on 23 May 2023. The existing Church Courts Act (Act III 2000) shall be repealed as at that date.

27.2 The following Acts of Assembly shall also be repealed as at the date this Act comes into force:

- a) Virtual Attendance at Meetings Act (Act VI 2018).